cuddy bill for pay for carriers when off sick; to the Committee on the Post Office and Post Roads.

Also, petition of Pittsburgh (Pa.) Oil Refining Co., protesting against revenue tax on petroleum; to the Committee on Ways and Means.

By Mr. McANDREWS: Petition of Grand Army of the Republic national encampment, adopted at Detroit, Mich., September 1, 1914, favoring national encampment at Vicksburg National Park; to the Committee on Appropriations.

By Mr. STEPHENS of California: Petitions of 61 citizens of the United States, relative to due credit to Dr. Cook for his polar efforts; to the Committee on Naval Affairs.

Also, petition of members of Fraternal Brotherhood of Maple Leaf Lodge, No. 360, favoring Hamill civil-service bill; to the Committee on Reform in the Civil Service.

Also, petition of board of directors of Chamber of Mines and Oil, Los Angeles, Cal., favoring passage by Congress of an emergency measure suspending the operation of mining laws; to the Committee on Mines and Mining.

By Mr. TAVENNER: Petition of 100 citizens of the United States, relative to due credit to Dr. Cook for his polar efforts; to the Committee on Naval Affairs.

SENATE.

THURSDAY, *October 1, 1914.*

(Legislative day of Monday, September 28, 1914.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

PROPOSED ANTITRUST LEGISLATION.

The Senate resumed the consideration of the conference report on the disagreeing votes of the two Houses upon the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The VICE PRESIDENT. The pending question is on agreeing to the conference report.

Mr. BORAH. Mr. President, I was diverted last evening from the line of argument which I was attempting to make. I do not desire to take too much of the time of the Senate, so I shall ask generally at this time that I may be permitted to insert in my remarks some quotations from decisions from which I had intended to read.

The VICE PRESIDENT. Without objection, it will be so ordered.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Lea, Tenn.	Shafroth	Vardaman
Borah	Martine, N. J.	Smith, Ga.	Warren
Bryan	O'Gorman	Smith, Mich.	Weeks
Chamberlain	Oliver	Smoot	West
Chilton	Overman	Sterling	White
Clapp	Page	Swanson	Williams
Culberson	Perkins	Thompson	
Gore	Pittman	Thornton	
Kern	Reed	Townsend	

Mr. BRYAN. I desire to announce that my colleague [Mr. FLETCHER] is necessarily absent from the Senate.

Mr. SMOOT. I wish to announce that the senior Senator from New Hampshire [Mr. GALLINGER], the junior Senator from Utah [Mr. SUTHERLAND], and the junior Senator from West Virginia [Mr. GOFF] are necessarily absent. The senior Senator from New Hampshire [Mr. GALLINGER] is paired with the junior Senator from New York [Mr. O'GORMAN], my colleague [Mr. SUTHERLAND] is paired with the senior Senator from Arkansas [Mr. CLARKE], and the junior Senator from West Virginia [Mr. GOFF] is paired with the senior Senator from South Carolina [Mr. TILLMAN].

Mr. WARREN. I wish to announce the unavoidable absence of my colleague [Mr. CLARK]. He is paired with the senior Senator from Missouri [Mr. STONE]. I make this statement for the day.

The VICE PRESIDENT. Thirty-three Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of absent Senators, and Mr. JOHNSON, Mr. McCUMBER, Mr. SHEPPARD, and Mr. THOMAS answered to their names when called.

Mr. SMITH of South Carolina, Mr. SMITH of Arizona, and Mr. LANE entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty Senators have answered to the roll call. There is not a quorum present.

Mr. CULBERSON. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the instructions of the Senate.

Mr. SIMMONS, Mr. BANKHEAD, and Mr. HUGHES entered the Chamber and answered to their names.

Mr. HUGHES. I desire to announce the absence of the junior Senator from Tennessee [Mr. SHIELDS] on important business.

Mr. POMERENE, Mr. LEE of Maryland, Mr. NELSON, Mr. JAMES, Mr. OWEN, Mr. MYERS, and Mr. NORRIS entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present.

Mr. BORAH. Mr. President, it is my purpose now to call attention to the decisions in the cases known as the Standard Oil and the Tobacco cases and to some opinions which followed in the wake of those opinions, so that we may see how thoroughly the court has dealt with this subject, which is not only of concern to the people but a matter of consideration in the Senate. Everyone looked upon the approaching decisions in the Standard Oil case and in the Tobacco case as likely to be conclusive as to the final and settled construction of the Sherman antitrust law.

It was felt, Mr. President, that if these combinations and trusts were dissolved by the Supreme Court and it was found that the Sherman law was sufficient and efficient to deal with such combinations as those the statute would thereafter be regarded as effective for the great purpose for which it was enacted. On the other hand, it was believed that the case against these combinations would be the real test as to the efficiency of this law and that if they should escape the condemnation of the statute it would be wholly ineffective thereafter.

For a time after the rendition of these decisions it was believed that the court had read into the statute a phrase which would likely render the statute thereafter, in large measure, effective; but, as public opinion settled down and it came to be known that these decisions had really condemned every conceivable form of monopoly against which the people have ever complained, as the decisions came to be better and more fully understood, the country arrived at the conclusion that the Sherman antitrust law had become a great, powerful, effective statute.

I quote a single paragraph from the body of the Standard Oil decision, found in Two hundred and twenty-first United States, at page 59, wherein it is said:

> That in view of the many new forms of contracts and combinations which were being evolved from existing economic conditions, it was deemed essential by an all-embracing enumeration to make sure that no form of contract or combination by which an undue restraint of interstate or foreign commerce was brought about could save such restraint from condemnation. The statute under this view evidenced the intent not to restrain the right to make and enforce contracts, whether resulting from combination or otherwise, which did not unduly restrain interstate or foreign commerce, but to protect that commerce from being restrained by methods, whether old or new, which would constitute an interference that is an undue restraint.

Every conceivable form of contract or combination arising out of economic conditions, new or old, and every form of monopoly of the ten thousand different subtle forms in which it might appear was adjudged to be within the inhibition of the statute, provided it affected unduly interstate commerce, or provided that it built up a monopoly or was a step in the direction of building up a monopoly.

It is well to bear in mind, Mr. President, that the word "unreasonable" can have effect only upon the first section of the Sherman antitrust law; that as to the second section, which deals with monopoly, the court condemned all conceivable forms of monopoly, and, furthermore, inhibited and condemned every step which would lead to the formation of a monopoly. There is no act which would be considered or regarded as tending to build up a monopoly that is not now inhibited by the Sherman antitrust law, and you may go into a court of equity and prevent that single act from being accomplished or achieved if its tendency be to build up a monopoly, or if it be a step in that direction. There could be no more complete condemnation of monopoly, which is the real evil from which the country is suffering, than is found in these decisions. The court says further:

> Undoubtedly the words "to monopolize" and "monopolize" as used in the section reach every act bringing about the prohibited results. The ambiguity, if any, is involved in determining what is intended by "monopolize." But this ambiguity is readily dispelled in the light of the previous history of the law of restraint of trade to

which we have referred and the indication which it gives of the practical evolution by which monopoly and the acts which produce the same result as monopoly—that is, an undue restraint of the course of trade—all came to be spoken of as, and to be, indeed, synonymous with, restraint of trade. In other words, having by the first section forbidden all means of monopolizing trade—that is, unduly restraining it by means of every contract, combination, etc.—the second section seeks, if possible, to make the prohibitions of the act all the more complete and perfect by embracing all attempts to reach the end prohibited by the first section—that is, restraints of trade, by any attempt to monopolize, or monopolizations thereof—even although the acts by which such results are attempted to be brought about or are brought about be not embraced within the general enumeration of the first section.

Mr. President, there is no escape from the principle there announced, and now constituting the final decision and the final judgment of the court with reference to this statute. All forms of monopoly, all steps leading to monopoly, all acts in contemplation of monopoly, are prohibited, as well as the final result, to wit, a monopoly. There is not in this bill a specification or condemnation of any individualized act which can be considered as tending to create monopoly which is not now condemned by the decision of the Supreme Court in the Standard Oil case; and the thing we are seeking to reach in this country is the eradication and elimination of monopoly in its different forms.

I have never felt that there was any great necessity for the Congress or the lawmaking body to provide for the surveillance or the overseeing or the superintending of the different forms of contest or industrial war which characterize generally the business world, unless they are acts which in themselves can create monopoly. If so, they stand under the ban of the law as it is now written.

Permit me now to call attention to a paragraph in the American Tobacco Co. case. The court says:

Coming then to apply to the case before us the act as interpreted in the Standard Oil and previous cases, all the difficulties suggested by the mere form in which the assailed transactions are clothed become of no moment.

It is well known, and the briefs disclose, that the attorneys presenting the Tobacco case felt that the form in which the combination had been organized or which it had taken, the manner in which the different independent industries had been brought together, the method by which one corporation had practically absorbed all the others, and the scheme by which they were interlocked and intertwined and covered and blanketed by stock issues and bond issues, would enable them to say, "We are simply a great industry—not a combination, but a great industry, grown up through and by legitimate methods, and are entitled to be protected under the law." But the court looked through these forms. As a court of equity will, it pierced through the outer covering and looked to the ultimate object, intent, purpose, and power of the combination as made; and, looking through the form, it saw within from the beginning an intent to monopolize the industry, to control it exclusively, if possible, or so nearly exclusively as to enable it to dominate the industrial field in that particular line. Having arrived at the conclusion that it was a monopoly, the court said it was indifferent as to the form which the assailed transactions took. The court further said:

This follows because, although it was held in the Standard Oil case that—giving to the statute a reasonable construction—the words "restraint of trade" did not embrace all those normal and usual contracts essential to individual freedom and the right to make which were necessary in order that the course of trade might be free, yet, as a result of the reasonable construction which was affixed to the statute, it was pointed out that the generic designation of the first and second sections of the law, when taken together, embraced every conceivable act which could possibly come within the spirit or purpose of the prohibitions of the law, without regard to the garb in which such acts were clothed. That is to say, it was held that, in view of the general language of the statute and the public policy which it manifested, there was no possibility of frustrating that policy by resorting to any disguise or subterfuge of form, since resort to reason rendered it impossible to escape by any indirection the prohibitions of the statute.

Mr. President, what form of monopoly or what monopolistic practice can the most ingenious mind now conceive that is not subject to condemnation and dissolution under this law? As I said yesterday, as the business world interpreted this decision, they soon came to know that there was no possible escape from the decision of the Supreme Court. They fought earnestly, up until this decision was rendered, for some gap out of which they might go or escape; but since the hour this decision was rendered there has not been, to my knowledge, a combination or monopoly created or built up in the industrial world. I have never doubted that had it been said, either by the party then in power or the party now in power, that this decision in all its specifications and its strength and comprehensiveness would be enforced, so far as any new combination was concerned the industrial world need not fear it in the future.

We have been 20 years in building up these decisions. It takes time to build up a great code of law to circumvent the ingenuity of those who desire to evade principles and policies. There is no court and no body of lawmakers which can in the first instance define all the different methods by which men will seek to escape a general principle announced; but in the 20 years which have passed the court has dealt with one combination after another, until in these decisions are found a code of rules, of principles, which seem now to cover every conceivable form of transaction having for its purpose the creation of a monopoly.

Finally, Mr. President, what does the Supreme Court say in the Tobacco case? I doubt if the purport or the strength of this judgment has ever been understood or its real weight properly regarded by the public. It says—this is the judgment of dissolution—

That in the event, before the expiration of the period thus fixed, a condition of distintegration in harmony with the law is not brought about, either as the consequence of the action of the court in determining an issue on the subject or in accepting a plan agreed upon, it shall be the duty of the court, either by way of an injunction restraining the movement of the products of the combination in the channels of interstate or foreign commerce or by the appointment of a receiver, to give effect to the requirements of the statute.

I will venture to say that there will not be found in the history of chancery in England or in this country any such decree as is here found in the Tobacco case, so drastic and so effective that there could be no possible escape. The court lays down the rule that if the defendants violate the law or fail to bring themselves within the provisions of the law they shall be prohibited from enjoying the benefit of interstate trade and denied entrance to the channels of interstate commerce.

Mr. President, there is a complete and efficient program by means of which we can deal with this subject. First, every form of monopoly, in whatever guise it may robe itself, is condemned. Second, the condemnation may take the form of providing that it shall not enter the channels of interstate trade at all.

There was one other attempt, after the rendition of this opinion, to break through. Those who had formulated the gigantic scheme in Chicago and elsewhere to corner the market, as it was known, conceived the idea that they were not within the inhibition of the statute; that cornering the market was a transaction wholly within the State, and did not come within the purview of interfering with interstate trade; and the court had occasion in the case of United States v. Patten (226 U. S.) to pass upon this question. In determining it the court said:

We come, then, to the question whether a conspiracy to run a corner in the available supply of a staple commodity, such as cotton, normally a subject of trade and commerce among the States, and thereby to enhance artificially its price throughout the country and to compel all who have occasion to obtain it to pay the enhanced price or else to leave their needs unsatisfied, is within the terms of section 1 of the antitrust act, which makes it a criminal offense to "engage in" a "conspiracy in restraint of trade or commerce among the several States." The circuit court, as we have seen, answered the question in the negative; and this, although accepting as an allegation of fact, rather than as a mere economic theory of the pleader, the statement in the counts that interstate trade and commerce would necessarily be obstructed by the operation of the conspiracy. The reasons assigned for the ruling, and now pressed upon our attention, are (1) that the conspiracy does not belong to the class in which the members are engaged in interstate trade or commerce and agree to suppress competition among themselves; (2) that running a corner, instead of restraining competition, tends, temporarily at least, to stimulate it; and (3) that the obstruction of interstate trade and commerce resulting from the operation of the conspiracy, even although a necessary result, would be so indirect as not to be a restraint in the sense of the statute.

Upon careful reflection we are constrained to hold that the reasons given do not sustain the ruling and that the answer to the question must be in the affirmative.

So long, sir, as it seemed possible to find an avenue of escape from the Sherman antitrust law our attention was directed to the attacks which were being made upon that law; but when the time arrived that every possible avenue seemed to be closed against the activities of those who would create monopolies, a different line of action was adopted and a new policy undertaken to be fastened upon the country. As I said yesterday, as soon as that condition of affairs arose there began a propaganda in this country by some acting in perfect good faith, by others with a design to enable them to do that which they were not permitted to do under the Sherman law—create monopoly—and that propaganda has gone forward. What was its purpose? What did it seek to do? To bring the public mind to the belief that these monopolies, notwithstanding they were condemned under the Sherman law, should be permitted, in the interest of business and business growth and evolution, to continue, and merely their practices prohibited by some ruling power, such as a business court or a commission. It was not, Mr. President, that the Sherman law was ineffective, it was that it was effective, that started the propaganda. It was not that it was insufficient, it was that it was sufficient, that started the new theory and the new policy with which we are now dealing.

To my mind, the most reprehensible piece of politics that ever has been practiced upon the public has been this constant attack upon the courts. It was said they had failed to do their

duty under the Sherman law and to respond to public opinion with reference to this all-important question. The courts from the beginning, with two single exceptions, both of which exceptions are now eliminated by reason of subsequent decisions, have dealt with this subject in a way that has resulted in a complete code of laws sufficient and efficient to accomplish everything that the most sanguine desire in regard to dealing with this subject. Those who have desired to bring about a commission have apparently felt it necessary to attack the courts and to show that they were incapable of dealing with this subject, in order that it might be more justifiable in the minds of the public that we should find a new tribunal.

But it is said that the law has been made uncertain by reason of the decision in the Standard Oil case and the Tobacco case, and reading into the statute, as they say, "unreasonable restraint of trade"; that it is unenforceable as a criminal statute; that juries are not prepared to determine with sufficient safety and certainty what is unreasonable restraint, even under the instructions of the court; and that the statute has been rendered ineffective as a criminal statute. What does the Supreme Court say in regard to that?

In the case of Nash *v.* United States (229 U. S.) it is said:

> The two counts before us were demurred to on the grounds that the statute was so vague as to be inoperative on its criminal side.
>
> * * * * * * *
>
> The objection to the criminal operation of the statute is thought to be waranted by The Standard Oil Co. *v.* United States (221 U. S., 1) and United States *v.* American Tobacco Co. (221 U. S., 106). Those cases may be taken to have established that only such contracts and combinations are within the act as, by reason of intent or the inherent nature of the contemplated acts, prejudice the public interests by unduly restricting competition or unduly obstructing the course of trade. And thereupon it is said that the crime thus defined by the statute contains in its definition an element of degree as to which estimates may differ, with the result that a man might find himself in prison, because his honest judgment did not anticipate that of a jury of less competent men. The kindred proposition that "the criminality of an act can not depend upon whether a jury may think it reasonable or unreasonable. There must be some definiteness and certainty," is cited from the late Mr. Justice Brewer, sitting in the circuit court.
>
> But apart from the common law as to restraint of trade, thus taken up by the statute, the law is full of instances where a man's fate depends on his estimating rightly—that is, as the jury subsequently estimates it—some matter of degree. If his judgment is wrong, not only may he incur a fine or a short imprisonment, as here; he may incur the penalty of death. "An act causing death may be murder, manslaughter, or misadventure, according to the degree of danger attending it," by common experience in the circumstances known to the actor. "The very meaning of the fiction of implied malice in such cases at common law was that a man might have to answer with his life for consequences which he neither intended nor foresaw." "The criterion in such cases is to examine whether common social duty would, under the circumstances, have suggested a more circumspect conduct." If a man should kill another by driving an automobile furiously into a crowd, he might be convicted of murder, however little he expected the result. If he did not more than drive negligently through a street, he might get off with manslaughter or less. And in the last case he might be held, although he himself thought that he was acting as a prudent man should. But without further argument, the case is very nearly disposed of by Waters-Pierce Oil Co. *v.* Texas (No. 1) (212 U. S., 86, 109), where Mr. Justice Brewer's decision and other similar ones were cited in vain. We are of opinion that there is no constitutional difficulty in the way of enforcing the criminal part of the act.

For any act, Mr. President, for which any combination would ever be indicted, for any act for which they would ever be brought into a court to be tried for their liberty, there would not be any difficulty in a jury arriving at the question whether or not they had been guilty of a violation of the law; neither would there be any question as to the fact that the parties who were guilty of the act had full knowledge of the fact that they were violating the law when they did so.

When you take the Standard Oil decision and the decision in the Tobacco case and analyze them and pick out those separate and distinct acts by means of which they built up their monopoly and by means of which they put other people out of business, there is not one of those separate and distinct acts that one would not readily say was dishonest. Neither is there one of those acts which any man in the business world could have committed without knowing in his heart that he was doing that which was dishonest, extortionate, and overpowering toward his neighbor or his competitor.

The question of lowering prices for the purpose of putting a competitor out of business while keeping prices up in another part of the country, the question of sending spies to spy upon an independent industry or to foment strikes within an independent industry, the question of purchasing competitors and dismantling projects and putting them out of business are all so flagrant, so open, and such unquestioned acts in violation of the statute that no man guilty of them would have any question at the time of their doing or achievement that he was within the inhibition of the law.

The statute is not only enforceable in a court of equity but it is equally enforceable, in my judgment, in the criminal court. The jury has to deal with reasonable doubt, with degrees in the question of murder, with degrees in the question of negligence, with the question of intent; and in the recovery against corporations, of employees, and coemployees under the instructions of the court the jury may deal with all the different degrees of negligence. It is no different question from that with which they would have to deal here.

Mr. President, there was another question raised with reference to the Sherman antitrust law which was an important one, because it had to do with the question of the statute of limitations. It was argued upon the part of some parties who were brought to answer under this law that the conspiracy became consummated, finished, at a certain time, and therefore a number of these monopolies or combines which had been formed in previous years had come within the inhibition of the statute of limitations so far as any prosecutions of the participants were concerned. It was an important question in the sense that many who had violated the law in some time past might wholly escape, and it was important from another standpoint, and that is, that if the Department of Justice should not discover the evidence within time to prosecute in the short period of three years many of them might escape in the future. But the court said in regard to that question:

> Although mere continuance of result of a crime does not continue the crime itself, if such continuance of result depends upon continuous cooperation of the conspirators, the conspiracy continues until the time of its abandonment or success.

Upon page 607 it is said:

> The defendants argue that a conspiracy is a completed crime as soon as formed, that it is simply a case of unlawful agreement, and that therefore the continuando may be disregarded and a plea is proper to show that the statute of limitations has run. Subsequent acts in pursuance of the agreement may renew the conspiracy or be evidence of a renewal, but do not change the nature of the original offense. So also, it is said, the fact that an unlawful contract contemplates future acts, or that the results of a successful conspiracy endure to a much later date, does not affect the character of the crime.
>
> The argument, so far as the premises are true, does not suffice to prove that a conspiracy, although it exists as soon as the agreement is made, may not continue beyond the moment of making it. It is true that the unlawful agreement satisfied the definition of the crime, but it does not exhaust it. It also is true, of course, that the mere continuance of the result of a crime does not continue the crime. But when the plot contemplates bringing to pass a continuous result that will not continue without the continuous cooperation of the conspirators to keep it up, and there is such continuous cooperation, it is a perversion of natural thought and of natural language to call such continuous cooperation a cinematographic series of distinct conspiracies, rather than to call it a single one. Take the present case.

Thus the court reviews the facts in the case, holding that the conspiracy continued until they had ceased to enjoy the benefits or privileges of the conspiracy. So long as they were engaged in carrying on or sustaining a monopoly, so long as they were enjoying the fruits of the combination, the conspiracy continued and the statute of limitations did not run.

It is also contended, Mr. President, and it has been stated here upon the floor, that juries will not convict. There was a time when that seemed to be a just criticism of the law, but since the law has been thoroughly defined and these decisions have been rendered, and it is well known what may be done and what may not be done, there has been a distinct change with reference to the action of juries in the matter of convictions.

Under the last administration—and I take that because I have the data gathered in regard to it since the rendition of those decisions—out of 11 criminal prosecutions actually brought to trial before a jury, the jury disagreed in but 2 cases and acquitted the defendants in but 2 other cases. The defendants voluntarily pleaded guilty in 2 cases and in 6 cases the juries convicted individual defendants, who were sentenced by the court to pay fines and in two instances to imprisonment as well as fines.

In addition to the cases specified, two other cases, in which the indictments had been found prior to the last administration, resulted during its term in verdicts of guilty against the individual defendants. In one of these cases the court imposed a fine; in the other both fine and imprisonment were imposed, although the Supreme Court reversed it on the question of error.

I venture to say, Mr. President, that if you will take 11 noted criminal cases in general, where any kind of a crime is charged against the defendant, you will not find any larger per cent of convictions than you find here since the rendition of these opinions in the enforcement of the Sherman law. Indeed, sir, the number of acquittals in murder cases in this country has led many to advocate the doing away with juries entirely, a policy with which I do not agree. I venture to say that you may take any class of criminal cases and you will find the percentage of acquittals and the percentage of disagreements quite as large as you will find during the last six or seven years under the Sherman antitrust law.

In one of these criminal cases, in which there was a jury trial, the distinguished judge who presided used language at the time he was passing the sentence which seems to me so appropriate that I am going to read it. He said:

However much that law has been misunderstood by many because of their ignorance, and misrepresented by others, or charged with uncertainty by designing persons who would cripple it, fearing its application to their own conduct, or for other reasons, it is nevertheless in itself a clear statement of its meaning, and it can not be misunderstood by anyone who really desires to obey it. It contains no standard of conduct other than the standard every fair-minded, reasonably conscientious man applies to his conduct in the various relations of life. It seeks to protect the common right of every citizen, however humble, to enter into any lawful business he chooses and there to exercise such talents as he has—his enterprise, his skill, and such capital as he can command, to lawfully develop, in such ways as his judgment may dictate, his business into a success if he can accomplish it; but if he must fail, to fail whether through want of skill or sufficient enterprise or capital or bad judgment or because of inferiority of product or bad management or misfortune of one kind or another, but not because of ruthless acts of oppression, sometimes final in their very selves, and sometimes through the exercise by competitors of acts amounting almost to physical force, and in some instances amounting to assaults by putting his agents in fear.

The jury in that case had no difficulty in arriving at a conclusion under the instructions of the court.

I want next, Mr. President, to call attention to some decrees which have been entered since the Standard Oil decision, in order to advise the Senate and more particularly the country of the extent to which the courts go in prohibiting every conceivable form of misconduct by these decrees; and no business man need have any trouble at arriving at what course he can properly pursue if he will just give a few hours' attention to these decrees before he starts in upon his enterprise or in his exploitation of his neighbor's business. I take these statements as to the terms of these decrees from an address of ex-Attorney General Wickersham.

In the Pacific Coast Plumbing Supply Association cases 24 corporations and 60 individuals were enjoined. They were enjoined first from combining, and so forth, to prevent manufacturers of plumbing supplies from selling to persons not members of the association or not listed in a blue book published by the association.

They were enjoined—

From publishing any such book.

From publishing any list of manufacturers who had not agreed to sell only to members of the association or to persons listed in the blue book.

From advertising lists of persons in the business who are not members of the association.

From combining to boycott a manufacturer for having sold to persons not members of the association and not listed in the blue book.

From conspiring to prevent persons located in a given territory from purchasing plumbing supplies from manufacturers or other dealers.

From communicating with a manufacturer or dealer to induce him not to sell to persons not members of the association or not conforming to the definition of a jobber given in the blue book.

Take the case of the General Electric Co. They were enjoined—

From fixing prices by agreement.

From maintaining by agreement differentials between lamps which did not in fact differ in quality or efficiency and from allowing discounts based on the aggregate of purchases from different manufacturers.

From making agreements with jobbers, and so forth, under which they could only secure goods manufactured by the General Electric Co. on condition of agreeing to take all other goods manufactured by them.

From making more favorable terms of sale to customers of any rival manufacturer than it at the same time offered to its established trade, with the purpose of driving such rival out of business.

In the Central West Publishing Co. and the Western Newspaper Union cases the injunction was to this effect:

From underselling any competing service, with the intent or purpose of injuring or destroying a competitor.

From sending out traveling men for the purpose or with instructions to influence the customers of the competitors or either of them so as to secure the trade of the customers without regard to the price.

From selling their goods at less than a fair and reasonable price, with the purpose or intent of injuring or destroying the business of a competitor.

From threatening any customer of a competitor with starting a competing plant unless he patronized the defendant.

From threatening the competitors of either one that they must either cease competing with the defendants or sell out to one of the defendants, under threat that unless they did so their business would be destroyed by the establishment of near-by plants to compete with them.

From in any manner, directly or indirectly, causing any person to purchase stock or become interested in the other for the purpose or effect of harassing it with unreasonable demands or inquiries.

From circulating reports injurious to the business of the other.

From persuading customers of competitors to violate contracts made with them by undertaking to indemnify them against loss and damage by reason of so doing, and so on ad infinitum.

Mr. President, I have trespassed upon the time of the Senate to present in mere outline the code of principles which have finally been announced in the decisions by virtue and under the Sherman antitrust law.

There are two ways, Mr. President——

Mr. CLAPP. Mr. President, if the Senator will pardon me, I was out on a meeting of a committee. I should like to inquire the case from which the Senator was reading just now?

Mr. BORAH. The last case I was reading from is what is known as the Central West Publishing Co. and the Western Newspaper Union case. The other cases from which I read the decree were the General Electric Co. and the Pacific Plumbing Supply Association.

There were two ways in which it might have been possible to have strengthened the Sherman antitrust law. At one time I am frank to say that I was very much in favor of those two methods. I am still in favor of them, but not so enthusiastic as I was, for the reason that it seems to me that the decisions of the Supreme Court have rendered those things largely unnecessary. The decisions have been such as to make it possibly unnecessary to have any of these methods adopted by which it was formerly contemplated we might strengthen the Sherman antitrust law; but I would still, Mr. President, be perfectly willing to give what support I could to statutes which would specifically individualize these different methods of building up monopolies which have been singled out and designated as objectionable by the Supreme Court, putting them in a separate statute, making those particular acts in themselves punishable in case of their commission by anyone, and in that way enable the law to be enforced more expeditiously and with less cost and the punishment made more certain, and perhaps bring more clearly to the mind of the business world the things which the business world might do and might not do.

Secondly, Mr. President, we might have strengthened the Sherman law by making it easier for private individuals to recover under that law; making it less expensive to recover their treble damages. There is no influence or power quite so effective in the enforcement of law as that of the injured private party. A bureau or a department of justice may postpone or procrastinate with reference to the enforcement of statutes, but a man who has suffered an injury, and knows that he has suffered an injury, and sees a speedy remedy for it, a remedy which he can pursue without the fear of bankruptcy, though he be a man of limited means, will almost invariably seek his recovery; and while he is seeking his recovery he is bringing about greater respect for the law and more obedience to the law upon the part of those who might violate it. There could be no safer guardian for the Sherman antitrust law than the hundreds and thousands of people who are injured by these monopolies if the law were made easy of enforcement so far as they are concerned. In that respect, Mr. President, the Sherman antitrust law, in my judgment, might have been strengthened and possibly made a more effective statute than it is; but even with regards to those methods they have been rendered largely unnecessary by virtue of these decisions.

My objection, therefore, to this proposed legislation, to begin with the Trade Commission act and, secondly, with this bill, is that the principle upon which the Sherman antitrust law is built is being abandoned. No better illustration of that could be found than in section 2 of this particular act. Section 2 provides:

SEC. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities—

And so forth.

Mr. President, the enforcement of that section is turned over to the discretion of a commission, which commission may tolerate, if it conforms to their attitude of mind, that which is clearly denounced and condemned by the Sherman antitrust law as a rigid, definite proposition; in other words, instead of defining and prescribing precisely what may be done and writing it into the statute so that every man in the United States may know precisely what he may do and the punishment which he will suffer if he violates the law—and that is what the Sherman antitrust law does—we have changed the policy and have attached to it a condition. Then, we have said that that entire matter is subject to the discretion and the judgment of a commission as to whether he can or can not do it. He will never know, Mr. President, until the commission decides it for him in his particular case, whether a certain act tends to lessen competition or to substantially lessen competition.

We should definitely and positively and beyond question deny the right to lower prices in a particular community when prices are kept up in another community, and we should attach a penal clause to that act punishing those who violate such a statute. That is one of the methods by which these monopolies have been built up; that is the method which practically all of them have pursued. It is reprehensible in law and reprehensible in morals, and it should not be left to the discretion of a commission, but should be definitely prohibited if we are going to deal with it at all. If we think it is necessary, in view of the decisions under the Sherman antitrust law, to deal with it, we should deal with it definitely, put it specifically into the statute, and attach to it a penal clause punishing those who violate it.

Section 3 of this proposed law reads:

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

And the enforcement of that section is turned over to the Trade Commission. The enforcement of this entire act, Mr. President, with some exceptions to which I may call attention in a few moments, are so turned over; but the important features of it and the important provisions of it are turned over as to enforcement to either the Trade Commission, the Federal Reserve Board, or the Interstate Commerce Commission, whose powers go no further than to investigate and to issue an order against the doing of those things, provided that they conceive that the doing of them substantially lessens competition or they conceive the act to be within the purview of the statute; but all idea of punishment, of absolute prohibition, all idea of prohibiting things which we positively and unequivocally know build up monopoly and punishing them if they violate the law, are abandoned by virtue of this statute and by reason of the terms of the statute and the method of its enforcement. In other words, Mr. President, it is announced to the world as the judgment of the Congress that these matters should be tolerated, that they can be defended, and that they should be regulated through a commission. I think it is in direct contravention to the principle upon which the Sherman law is built, and will lead in the end to the most tremendous bureaucratic system of government here at Washington of which the human mind could conceive.

We are reaching into every field of activity and into every field of industry through our bureaucratic system and drawing to the city of Washington every individual and every citizen of the United States to find out from a board what he may do or what he may not do. The law should be written upon the statute books so that he may read it in his home, and when he reads it that he may know what he may do, and go into court and have his rights enforced and seek justice in his own bailiwick and within his own jurisdiction.

Mr. President, the wellsprings of democracy are individual freedom, individual initiative, self-reliance, and equal opportunity. From these sources come the resuscitating, rebuilding forces through and by means of which our obstacles to progress are overcome and the enemies of democracy are conquered. In the atmosphere of a free, open arena men grow to that full stature of citizenship which bears without weariness the weight and discharges with success all the obligations and duties of citizenship in a republic. You can not rear that class of citizens in a country of special privileges or in the character-destroying blight of bureaucracy. Self-reliance, self-help, the ambition to be one's own master and to look upon success in life as of one's own building are as indispensable to citizenship as God's own sunlight to the teeming forces of nature.

Privilege in any of its ten thousand subtle and insidious forms, monopoly regulated or unregulated, are at war with the first principles of a representative republic. Those people who are talking about regulating business are deceiving the people, for what they propose to do is not to regulate big business, which may be in no sense a monopoly, but to regulate monopoly, which is a different thing. Regulated monopoly is no different from unregulated monopoly, except that regulated monopoly has attached to it a horde of public officials for whom the people must pay, for in the end the monopoly would regulate the regulators and the only effect of regulation would be an additional amount of supernumeraries in the way of public officials. Regulated monopoly will separate the people into classes just as effectively, because there stands between the two classes in this instance the Government, which would in a sense be a barrier against the breaking down of classes. Regulation might help to ameliorate the amount of extortion, but classes would be established just the same and just as certainly. The very nature of monopoly is this, that some citizen has a privilege and an advantage which his fellow citizen has not. The very nature of monopoly is that some one is living off of another's toil.

Monopoly is founded in special favors and establishes its own distinction as to citizens. The old distinctions as to royalists and plebeians, of the governing and the governed, have more justification and were more easily defended than the distinctions founded in special favors or exclusive privileges. The thing to do is not to regulate such things but to destroy them. I do not care in what form privilege comes, it is not here for regulation but destruction. We had beneficent and kindly kings and monarchs, but we wanted none such. To hear men going about over the country arguing that because some grasping monopolies have not yet oppressed the people, or as much as they might have done, is to remind one of those miserable satellites of kingly power who lived upon the bounty of their monarchs and prostituted their minds and intellects by pleading for his continued power. You will find that many of those who are preaching for the regulation of monopoly are on the pay roll, directly or indirectly, of monopolies, or the beneficiaries of their political donations. To tell the people of this country that their food, their clothing, their warmth, their shelter, their wage must be trusted to the beneficent disposition of monopoly, or that those few men having this tremendous power will fear some political commission which they have created is to mislead and deceive and betray the people to their ruin and to plant the seeds of disintegration among their institutions and tabernacles of government.

To ask the people of this country at a time when they have won their fight in the courts against monopoly, at a time when there lies before them a code of laws and principles which puts the seal of condemnation and death upon special privilege and industrial monopoly in whatever conceivable form they appear, to now stand aside from the fight, let special privilege grow and monopoly thrive and trust to some commission to regulate these powerful institutions, a most false and vicious theory—institutions which have grown up in defiance of law—is to trifle with the happiness and future of every home in the land and to shamelessly leave the Republic to the mercy of those who despise the very name of democracy. Mr. President, I am not opposed to big units in business; on the other hand, I am thoroughly in favor of them where they are built up through giving services to the people, a better quality of goods; built up along honest and legitimate lines, no one can object to them, and no one will ever have any occasion to object to them. So long as business is conducted along honest and legitimate lines there will be no trouble about there being enough in the field to prevent monopoly. But I am opposed to all this meddlesome surveillance, this bureaucratic interference with the thousands of honest business men while we are preparing to let illegitimate business and monopoly practically have its own way. I am opposed to this scheme which has for its effect, if not for its purpose, to draw the fight away from monopoly and expend our energies and our time in overseeing those who need no overseeing and who need no surveillance. I know why it is done and everyone who reflects upon the situation knows why it is done.

So I am for open war on monopoly. Fifteen hundred years ago the Emperor Zeno issued the following edict: "We command that no one may presume to exercise a monopoly of any kinds of clothing or of fish or of any other thing serving for food or for any other use, whatever its nature may be, and if anyone shall presume to practice a monopoly let his property

be forfeited and himself condemned to perpetual exile." The principle of that edict is as indispensable to the perpetuity of a republic as the principle of the emancipation proclamation of Abraham Lincoln.

Mr. WEEKS. Mr. President, the legislative situation existing in Washington is well illustrated, I think, by the attention which has been given to the masterly speech which the Senator from Idaho [Mr. BORAH] has just concluded. I do not believe there is a living man who can successfully controvert the statements which he has advanced relating to the results which are sure to come from this legislation which is now pending. Nobody knows what is going to happen. The best lawyers of this body and of the House of Representatives are in entire disagreement as to what the effect of this bill will be.

I have been listening to the debate on this subject off and on for several weeks, and I have come to the conclusion that there is not a Member of the Senate who really knows what the result of this legislation is going to be, either from a legal standpoint or from the standpoint of the great industrial operations of this country. Neither do those who framed the bill know what motives are behind this legislation.

It is contended that the people are demanding it. I do not know what people are demanding it. There is not anything in my correspondence which indicates that anyone is in favor of this legislation. I have examined with care the records of the hearings before the Interstate Commerce Committee and the Judiciary Committee of the House to find whether there was any definite desire on the part of any considerable number of people that legislation of this kind should be put on the statute books; and I have found, as the result of that investigation, that at least 25 witnesses have appeared against it where 1 has even given his assent to some form of it. The evidence which has been submitted to Congress on this subject is distinctly opposed, in my judgment, to any legislation of this kind, and the warning which the Senator from Idaho has delivered to the Senate with such force, and which has not, I regret to say, been listened to so that it will have any effect upon this legislation here, will be read and listened to by the country, for it is entirely justified. We have already adopted a bureaucratic system of government, which is sure to react against the best interests of business and every other operation in which our people are engaged.

I had sent to me this morning an editorial from the St. Louis Star, a paper referred to with approval yesterday in the debate by the junior Senator from Missouri [Mr. REED], in which it approves of his course in opposing the conference report and calls on the President to veto the bill if it passes as the conference report provides. Why, bless the writer's innocent intellect, if he would confer with his representatives on the floor of the Senate, with the junior Senator from Missouri, or with his Washington representative, he would find that in the "bad old times" that formerly existed, when the House of Representatives and the Senate disagreed about legislation or the terms of legislation, they met and came to some kind of a compromise agreement, but under the "new freedom" which exists to-day there are three conferees—those representing the House, those representing the Senate, and the President himself; and, if common report can be given any credence in this matter, the President has had quite as much to do in bringing about the conference report which we are now considering as have the conferees of the two Houses themselves; and it is not likely that the editor of the St. Louis Star is going to attract any attention from the President of the United States looking to the veto of a proposition which he in a practical sense is himself dictating.

The result of that procedure is illustrated in the attendance on the deliberations of the Senate to-day, and the lack of attention to arguments for or against this legislation. The responsibility which should go with putting on the statute books such legislation as this should attract here every Senator, instead of only a small minority, during the discussion of this great question.

I am not criticizing the conferees in this matter, because we are creatures of custom and the slaves of practice; the custom and practice now is what I have outlined—not the deliberations of the representatives of the Senate and the House, but the deliberations of the representatives of these two bodies practically dictated to in detail by the administrative end of this Government. That condition in itself, in my judgment, will cause us serious trouble in time.

I am not going to discuss in detail the various phases of this bill. If I were to do so and were able to do so, I should do it along the lines followed by the Senator from Idaho [Mr. BORAH]. I believe it is bad legislation, and legislation that is going to cause serious trouble in this country. There might be some excuse for experimenting along these lines if business conditions were normal; but everybody knows that business conditions are abnormal, due to various causes, and especially to the great war which is being fought in Europe. It is no time to be imposing on business a new form of strait-jacket, the effect of which will have to be determined by long-continued litigation, as in the case of the Sherman Antitrust Act.

I am one of those who believe that those engaged in large business, generally speaking, have been honestly trying to carry out the provisions of that law. They have employed the best legal talent, not to be told how to avoid the provisions of the law, but to be told what they can do and obey the law. Neither they nor their attorneys have known how far they could go; and it has only been as a result of long court procedure and the decisions of the court of last resort that there has been finally given to business men a fairly clear course which they may follow and keep within the provisions of the law.

When the Trade Commission bill was under discussion I referred to an opinion given by Senator Hoar to what was known as the Wire Pool very soon after the passage of the Sherman Antitrust Act. Those people, engaged in manufacturing wire, asked Senator Hoar, who had had very much to do with if he was not a dominating factor in drawing that bill, if they could, within the provisions of the act, continue the methods of business which they were then following; the Senator gave a very long and comprehensive opinion on the subject. He was a great lawyer, and it may be assumed that he was as intimate with the terms and provisions of the act as any man in the Senate or any man in the United States at that time. The men who asked for the opinion followed with exactness the course which he outlined; and yet, within the last five years, every one of them has been fined from one to five thousand dollars for doing what Senator Hoar had told them they could do. That opinion is of so much importance, and may be of so much interest to Senators, that while I have not it at hand I ask unanimous consent that I may insert it in my remarks and have it printed in the RECORD.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and permission is granted.

The matter referred to is as follows:

The question is proposed whether an agreement with each other by several companies, the product of each of whom is manufactured in one State to be sold and delivered in another or in a foreign country, by which they stipulate that their product shall not be sold for less than an agreed scale of prices, and that each shall pay into the common stock, to be divided into an agreed proportion, all profits by it received beyond what comes from a specified amount of sales, is illegal, and exposes those who take part in it to the proceedings and penalties provided in the act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies." Section 1 of said act is as follows:

"Every contract, combination, in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations, is hereby declared to be illegal. Every person who shall make such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor," etc.

It is clear that the second section of this statute has no bearing upon the question. One of the principal objects of the law is to prevent monopolies, which section 2 prohibits. But there is nothing in the above-described agreement which tends to create a monopoly. On the contrary, if enforced, it gives an advantage to corporations who do not enter into it and who can sell their product at a lower rate.

The only inquiry, then, is whether this contract is in restraint of trade within the meaning of section 1.

The object of the statute under consideration is to extend the common law to interstate and international commerce. The United States has no common law. Our national law consists of the Constitution and the statutes and treaties made in pursuance thereof. The several States, except those where the civil law prevailed at the time of their admission to the Union, adopted the English common law, either by the express provisions of their constitutions or statutes or by usage, so far as it is adapted to their circumstances and conditions. Among the common-law principles so adopted is that which renders certain contracts in restraint of trade unlawful. In some cases this rule is enforced by the penalties of the criminal law. In others contracts which do not subject those making them to any punishment are held illegal, as contrary to public policy, and the courts decline to enforce them.

Although the United States has no common law, yet where the phrase is used in national legislation to which the common law or the practice in the States has attached a special and definite meaning, the national legislation is presumed by the courts to use the phrase according to its common-law meaning or the meaning given to it by general usage in the States.

The Constitution gives to Congress the power of regulating commerce with foreign countries and among the States.

The sale of goods in one State to be delivered in another or in a foreign country is such commerce within the meaning of the Constitution.

The purpose of the statute above referred to, was to adopt the common-law principle as to contracts in restraint of trade as applicable to commerce with foreign nations or among the States, and to enforce that principle by suitable remedies and penalties.

We must look to the common law or to the usage of the States for the meaning of the words "restraint of trade" as used in the statute. It is not every contract which limits the freedom of the individual to engage in trade that the statute is intended to prohibit. Every person entering into a general copartnership is prohibited from trading on his own account in transactions within the scope of his copartnership business, and in that way his capacity to trade is restrained. But, of course, it could not be supposed for a moment that it was the purpose

of Congress to prohibit the ordinary contract of partnership for the purposes of interstate or international commerce. So the sale of the good will of a business carries with it a restraint on the part of the grantor from engaging thereafter in the business in such a way as to affect the value of the good will he has sold. Yet no man would suppose that it was the purpose of Congress to prohibit a transaction so common and everywhere lawful by which a business gained by a lifetime of industry and skill may be made valuable to its possessor when he desires to retire from it.

It is needless to multiply examples. We must, therefore, take it to be unquestionable that it was the purpose of Congress in prohibiting contracts in restraint of trade to prohibit only such contracts in restraint of trade as were deemed unreasonable and contrary to public policy by the common law.

We understand that the common law prohibited contracts whose purpose was improperly and unreasonably to restrain trade in a manner which should affect the public interest by getting one party to a contract into the power of the other. But it did not prohibit such arrangements as were made upon good consideration and were necessary to the reasonable protection of health and legitimate business. There is some variety of opinion in the courts of different States as to the application of these simple principles. But it will be seen that in all the cases the courts have endeavored and undertaken to apply them to the best of their ability.

There are some cases in which the courts have treated contracts as illegal because they tended to defeat the object of special statutes. After the repeal of such statutes the decisions under them are no longer applicable, and are not to be considered as furnishing a rule in determining what contracts are to be considered as contracts in restraint of trade. For instance, there was an old English statute limiting wages in certain employments. Agreements entered into for the purpose of raising wages to a point above that fixed by these statutes were held illegal by the English courts. Those statutes have been repealed. Since their repeal it is presumed such contracts would be held innocent in the United States where no such statutes existed, and this whether with or without an express legislative sanction to that class of contracts. It has been held in accordance with the principles above laid down that a contract not to engage in a certain kind of trade or business in a particular locality is lawful. Such a contract is reasonable, as it enables the person entering into it to dispose of the good will of a business. But a contract not to engage in a particular trade or calling anywhere in the country or realm is unreasonable, in restraint of trade. Such a contract deprives the country of the skill of one of its citizens, while it is unnecessary for the protection of any other person in his trade or calling. Since the great change in the method of transacting business by the increased facilities of communication of modern times I suppose an agreement by one person not to manufacture in competition with another would be held valid, although the competitors' places of manufacture might be quite remote from each other. It was held in an early Massachusetts case that a contract by one person not to engage in the business to the northwest coast of North America was legal, and it was enforced by the court. At that time that trade was of very small extent, and one person could not well engage in it without competing with others so engaged. In the case above referred to, Perkins *v.* Lyman (9 Mass., 421), the court says: "The stipulation is for the benefit of the public, for it prevents the trade from being overdone, and so profitable to none."

Judge Sedgwick, Pierce *v.* Fuller (8 Mass., 222), states very well the doctrine of the common law in regard to restraint of trade. He says all contracts "barely in restraint of trade, where no consideration is shown, are bad. But cases of a limited restraint of trade, where it appears from the special circumstances that the contract is reasonable and useful, shall be good. And the consideration must always be shown that the contract may be supported by the special circumstances which induced the making of it. But these circumstances the court must judge, and if upon them it appears to be a just and honest contract, it will be maintained." Mr. Rand, in his note to the above case, says: "In order that a contract in restraint of trade may be valid, it must be partial, reasonable, and for an adequate consideration."

In Snow *v.* Wheeler (113 Mass., 197) Colt. J., says, "In the relations existing between labor and capital the attempt by cooperation on one side to increase wages by diminishing competition, or on the other to increase the profits due to capital, is within certain limits lawful and proper." It ceases to be so when unlawful coercion is employed to control the freedom of the individual in disposing of his labor or capital, and so it was held that an agreement not to teach new hands and thereby increase the number of persons to compete with the laborer was not unlawful.

In Carew *v.* Rutherford (106 Mass., 1, 14) it is said, "It is no harm for men to associate themselves together and agree that they will not work under a certain price." I can have no doubt that in Massachusetts an agreement of workmen not to work under a certain price, or not to work more than a certain number of hours per day, and an agreement among employers not to sell their goods under a certain price, or not to produce more than a certain quantity during any fixed season, supposing in both cases the agreement to have for its object the prevention of injury to the parties making it, by the lowering of the price of what they have to dispose of and so the destruction of their business on the same hand, or the loss of employment on the other, there being no attempt at a coercion of other people by criminal or unlawful means, would be held legal and valid. The cases depend upon the same principle. Such contracts are, I think, held reasonable by the community and will be sustained by the courts. They are not artifices or conspiracies entered into for the purpose of putting the community at the mercy of speculators or monopolists, but are only a reasonable method of self-defense against methods of competition which if unchecked are likely to end in the destruction of weak and feeble concerns or individuals and the establishment of monopolies by the rich and powerful.

In Mallan *v.* May (11 M. & W., 653) and Hitchcock *v.* Coker (6 Ad. & El., 438) it is affirmed that a covenant in restraint of trade is reasonable when it does not extend further than is reasonably necessary for the protection of the business of the obligee, and is unreasonable if it does extend further than is necessary for such protection.

In Hilton *v.* Eckersley (6 El. & Bl., 47) an agreement by 18 mill owners to be governed as to wages, discipline, and general management of their works by a majority of the parties to it, including the obligation to suspend or close the works altogether when the majority should so order, was held to be in restraint of trade and could not be enforced. That decision, however, was by a majority of the court, only Justice Erle dissenting. The facts of that case are exceedingly different from those supposed here. In that case the obligors put their own freedom of the conduct of their business absolutely into the control of each other. I suppose it would not be contended anywhere that an obligation to give up business altogether, not merely for a limited extent of territory, is not a contract in restraint of trade. And the contract in Hilton against Eckersley included that obligation if a majority of the parties should so require. Even on that case Justice Erle was of opinion that the agreement and its tendency was for the advancement of trade. For the workmen by combining not to work for one master while they are supported by wages from the others might ruin each separately, and unless the masters could protect themselves more effectually than by an indictment their trade might be destroyed.

There are two New York cases in which it was held that an agreement by all the owners of boats upon the Erie Canal to charge a certain price for freights and to keep a limited number of boats, and that if any boat owner had an application for more freight than he could accommodate with his existing number of boats he was to get the freight carried on the best terms possible and pay over the profit to the association, was illegal in restraint of trade. The reason chiefly insisted upon by the court was that these public carriers were using a canal provided by the State for the public accommodation at large cost, the canal route itself having many competitors, so that this arrangement was an injury to the State and contrary to the policy which had provided the canal for the public. Some phrases of the opinion imply that the court thought the contract void, as in the general restraint of trade. In King *v.* Journeymen Tailors of Cambridge (8 Mod., 10) an indictment was held good for conspiracy by the defendants to raise their wages. This was under a statute which fixed wages and made it criminal to conspire to raise them. Chief Justice Shaw, in Commonwealth *v.* Hunt (4 Met., 122), comments on this case and says that "all the laws of the parent country which were made for the purpose of regulating the rate of wages, not being adapted to the circumstances of our colonial condition, were not adopted, used, or approved here." In Young *v.* Timmins (1 Cr. & J., 331) it is said: "A contract in partial restraint of trade is good when upon an adequate consideration." Best, chief justice, in Homer *v.* Ashford (3 Bing., 324), says of reasonable contracts in restraint of trade, supported by adequate consideration: "The effect of such contracts is to encourage rather than cramp the employment of capital in trade and the promotion of industry." Park, chief justice, in Mitchell *v.* Reynolds (1 P. Wm., 191), says: "There may happen instances where these contracts may be useful and beneficial, as to prevent a town from being overstocked with any particular trade." Story on Equity, section 293, says: "It may even be beneficial to the country that a particular place should not be overstocked with artisans or other persons engaged in a particular trade or business, or a particular trade may be promoted by being for a short period limited to a few persons, especially if it be a foreign trade recently discovered, and it can be beneficial but to a small number of adventurers." There are some ancient forms of indictment at common law for conspiracy by workmen to raise their wages, but there can be no doubt that neither in any State in this country nor in England would such indictment be now sustained. Parsons on Contracts, volume 2, page 888, says: "The rule of the law upon this subject is somewhat peculiar. So long ago as in the times of the yearbooks the courts frowned with great severity upon every contract of this kind, but after a while the excessive aversion became much mitigated. Many exceptions and qualifications were allowed. If the series of cases on this subject are critically examined and considered in connection with the temporary alterations in the law or usage in other respects, we can not but think that reason may be found for believing that the law in relation to these contracts grew out of the English law of apprenticeship, to which we have already referred. By this law, in its original severity, no person could exercise any regular trade or handicrafts except after long apprenticeship and generally a formal admission to the proper guild or company. If he had a trade, he must continue in that trade or have none. To relinquish, therefore, was to throw himself out of employment, to fall as a burden upon the community, to become a pauper. But this ancient severity of the law is apprenticeship abated, and as this severity gradually relaxed it will be seen that contracts 'in restraint of trade' were treated with less and less disfavor until the present rule became established. In the application of this rule we shall see a gradual enlargement, until in this country at least it seemed to be a little more than nominal."

Upon the whole it seems to me very clear that the agreement by each of the persons in the contract above supposed furnished an adequate consideration for the agreement of all the others. Further, it seems to me that a contract, although in partial restraint of trade, which is reasonable and reasonably limited in point of time, which has for its object merely the saving the parties from a destructive competition with each other, is not prohibited by the statute above referred to. The question whether this contract is reasonable will be for the court. I think the contract above proposed is reasonable and would be so held by the courts of the United States. No manufacture can be established in this country without the prospect of reasonable permanence. To engage in the manufacture contemplated by these parties requires an expensive plant, large outlay for machinery, materials, and supplies, and the gathering together of sufficient number of artisans skilled in this particular manufacture. It is for the interest of the public that such enterprises shall be undertaken. They will not be undertaken without a prospect of reasonable permanence in prices, and they will not be undertaken by new and small establishments in competition with old and powerful ones if they are to be exposed to what is commonly called the cutthroat or "cutting under" process. The opinion of courts, like the opinion of the rest of the community, may vary in different generations as to what is reasonable. But the question of reasonableness will be a question of law for the courts, to be determined upon all the facts and in the light of the experiences, the business habits, and the public opinion of the present time.

This being my opinion, I think the parties to the agreement above supposed would not be likely to be convicted of an offense under the statute of last year.

I am further asked whether it is likely that a prosecution will be instituted against us. This is not a question of law. The gentlemen who are concerned in this business can judge as well as I can of the probability in this regard. It is probable that at some time proceedings will be instituted which will test this question as other similar questions that may arise under the statute. Whether this business would be likely to be selected as the object of proceedings for such a test would depend upon the feeling of their customers, and possibly their business rivals would be in favor of supporting and not of overthrowing this arrangement.

I can not see any distinction in principle between a contract of workingmen not to work for less than a stipulated sum as wages and a contract of employers not to sell their product for less than a stipu-

lated sum. Both these being intended for their legitimate protection and not accompanied with any stipulation for unlawful, oppressive, or fraudulent methods, seem to me to be lawful within the policy of the law as it now exists and not to be in restraint of trade, but in advancement thereof.

My attention has been called also to the statute of the State of Missouri, approved April 2, 1891, entitled "An act providing for the punishment of pools, trusts, and conspiracies to control prices, and as to evidence and prosecution in such cases." This act can have no effect upon interstate commerce as above defined, namely, the manufacture of goods in one State to be sold and delivered in another. The jurisdiction of Congress over that subject is exclusive after Congress has acted, and no State law affecting it can have any constitutional validity. The law of Missouri is operative upon property within the State sold to be delivered there. The regulation of such sales is not within the constitutional jurisdiction of Congress. I am informed that there is a law like that of Missouri in Illinois, which I have not seen.

August 22, 1891.

Mr. WEEKS. After 20 years of trials of cases following the advice of attorneys and followed by the decisions of the courts, business has finally come to a reasonably sound conclusion, as far as the Sherman Antitrust Act is applicable. It will take as many years of doubt to determine what this law means, multiplied by the increased number of cases which will be covered by the provisions of this law as compared with those which are affected by the Sherman Antitrust Act. There are 300,000 corporations in the United States which would come under the jurisdiction of this commission; and anyone who has followed the course of the courts in the case of the Sherman Antitrust Act must be convinced that it will be many, many years before there will be even a reasonable course outlined by the courts themselves to indicate where business men may go, how far they may go, and where they must stop. All the time they will be employing expensive counsel to advise them what they may do, and the advice of counsel in many cases will be wrong, as it was in the case of Senator Hoar, to which I have referred.

There is one provision in this act to which I wish to refer particularly, and that is the one in section 8 relating to directorships in banks. We follow a directly contrary course in this country regarding directorships from that which has been evolved as a result of the experience of the rest of the world. In foreign countries with which we are in competition, where there are great industrial and business enterprises involved, it is the intent and the purpose of those who are interested in corporations or large business enterprises to obtain as directors those men whose previous experience and whose knowledge of the current conduct of business will make them safe and wise advisers. There are practically professional directors in those countries, and there is no limitation to the number of boards or the character of the boards on which such men may serve. Even the great national banks of Europe are directed by men who are almost without exception directors in other large corporations—directors in private banks, directors in joint-stock banks, directors in trust companies, directors in all the multitudinous operations in which the people of Germany and France and Great Britain are involved.

We are now providing that a man in a city having 200,000 people or more can not be a director of a national bank and a director of a State bank at the same time. There could not be a greater piece of folly, from the standpoint of sound business, than to put any such provision as that in this law. I regret that the Senate conferees did not stand by the bill as it passed the Senate; but, in any case, to limit directorships in a national bank to men who are not directors in a State bank under such conditions is going to be demoralizing and prejudicial to the best conduct of banking business in every one of the 28 cities which will come within the provisions of that paragraph.

Mr. CHILTON. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from West Virginia?

Mr. WEEKS. Yes; I yield.

Mr. CHILTON. The Senator has noticed, I presume, that the provision to which he refers does not go into effect for two years?

Mr. WEEKS. Yes; but the provision is fundamentally wrong. It is not a question of when it goes into effect. It is a question of whether it is wise and sound, or unwise and unsound; and I contend that it is the latter.

State banks and trust companies in many respects conduct an entirely different kind of business from that conducted by national banks in such respects. They are supplementary to national banks. They do a trust business, a mortgage business, and various other things which are prohibited by the national banking act, so they are supplementary to national banks. But there is another and even sounder reason.

Mr. OVERMAN. Mr. President, will the Senator yield to me?

Mr. WEEKS. Certainly.

Mr. OVERMAN. There is a proviso here allowing any bank to have one trust company at the same place, which can do the very thing the Senator is talking about.

Mr. WEEKS. Yes; but if the Senator will read the provision I think he will find that in that case the trust company must be entirely owned by the stockholders of the bank.

Mr. OVERMAN. Exactly; and it can do that kind of work. Another thing to which I wish to call the Senator's attention is that while a person can be a director in only one bank in one of these cities, outside of the city he can be a director in as many banks as he pleases. It applies only to banks located in the same city.

Mr. WEEKS. Mr. President, I think I know the reason why this legislation has taken this form. There were cases, in one of the great cities of this country, especially, where certain men became directors in a considerable number of banks. I want to say frankly that I think it was carried too far, and that a provision which would prevent any such condition would be wise and salutary. If, however, the trust company or the State bank does perform the same general kind of banking which is conducted by the national bank, it is of manifest advantage to have a director of a State bank also eligible for a directorship in a national bank.

If there is any value in the examination of banks by examiners or inspectors—and I believe there is—that value is negatived by the fact that the same inspectors or examiners who examine the national bank never see the inside of the State bank. If, however, there is a man on the board of directors of the national bank who is at the same time a member of the board of directors of the State bank, so that he may give to the officers of the national bank the information which comes from his experience as a director of the State bank, then he is a more valuable director than any other that can be obtained.

You are taking that possibility away from hundreds of banks in the cities to which this legislation refers. It is injudicious and unwise, in my judgment, and I regret, as I said before, that the conferees of the Senate did not insist on leaving this provision out of the bill, although a provision which would have covered the instance which I have given would have met my approval.

Mr. President, what I particularly want to refer to in connection with this legislation is the bogy man which has been set up by almost all those who have discussed it, in the shape of the company known as the United Shoe Machinery Co. I know that in this saturnalia of crimination and recrimination and denunciation which goes on against large business combinations, large corporations called trusts, it is unusual for anybody to venture to say a word in defense of what he believes has been the building up of a great industry, which has been of benefit to all the people of this country and other countries. Yet I can not believe that in relation to this particular enterprise Senators or Representatives or the country at large has sufficient knowledge of its operations to warrant their indulging in the denunciation which has been indulged in, and in using it as a basis—as has been done in this case, in my judgment—for legislation.

It is true that the United Shoe Machinery Co. is now being proceeded against by the Government, which has asked for a dissolution of the company. That in itself should be sufficient reason, I think, why legislation should not be passed which is going to affect the operations of that company. The trial of the case has been completed; the evidence has been submitted; the arguments have been made. Incidentally, I want to say that all the evidence which has been retailed, in one form or another, before the Senate and House committees, and before the Senate itself, has been submitted to the United States courts in Boston. All of it has been passed on, and much of it has been thrown out of court, and it is now in the hands of three judges, who are writing the decision.

Under the circumstances I think Congress might well refrain from legislating in a way which is intended to affect directly that great industry until our courts have determined what course should be taken.

Not only that, but we have pending in the House legislation which very largely relates to this industry. It is a revision of the patent laws, which, in effect, is exactly what we are doing in this bill. A report has been made, and the bill is now on the House calendar dealing with this subject. I suppose, under the procedure we are now following, that some day this bill will be taken up in the Senate. When it is, it should be as thoroughly discussed as any legislation that ever has come before this body, because we have excelled in many of our industrial and business operations in this country because of our patent laws, as a result of our patent legislation; and be-

fore anything is done to destroy the effects of that legislation, the change should be given the utmost scrutiny.

I notice in the report which has been made on that bill, House bill 15989—a report which is astounding in its lack of accuracy—a paragraph which I want to read:

A monopoly of 98 or 99 per cent of the shoe-manufacturing machinery business of the United States brought about by acquirement of ownership of between seven and twelve thousand patents completely covering the shoe industry exists in the United States to-day. There is not a single shoe manufacturer in the United States able to continue in business against the pleasure of the owner of these patents, because of the power to enforce the tying and restrictive clauses based on patents and embodied in the lease contracts. This monopoly compels every shoe manufacturer in the United States using its machinery, and there are no others, to buy from it only at its arbitrarily fixed price all nails, wire, wax, and other necessities of the industry, under penalty of having his machinery ripped from his factory without notice or redress. Nobody can buy shoe-manufacturing machinery from this monopoly at any price, and because of the tying and restrictive clauses based on patents inserted in its lease contracts a monopoly of the manufacture of shoemaking machinery has been built up until to-day only 1 or 2 per cent of the shoe machinery in the United States is made by competing companies, and the machines made by these competing companies are only such machines as are not covered by patents and which can not be manufactured at a very great profit.

The Shoe Machinery Trust, by virtue of tying and restrictive clauses based on patents, under no circumstances permits its lessees to install shoe machinery obtained from a source other than itself, and as a result control of practically all of the shoe machinery in operation in the United States is retained in the patentee manufacturers. Machinery may be obtained from this monopoly by lease only. The company will not sell its machines, and its monopoly in its field is complete.

Mr. President, substantially every statement made in that report is untrue. Some of them are so far from the truth that it would seem as if the writer could not have given any investigation whatever to the facts. The entire record of the evidence of the trial of the Shoe Machinery Co., in Boston, which is now before the court, would substantiate the correctness of the statement which I have just made. But I want to refer particularly to some of the statements.

First. This record shows that even the United States abandoned the claim that the United Co. monopolizes shoe machinery generally, and claimed only that the company had a monopoly of "machines for preparing and attaching the bottoms to the uppers of boots and shoes, eyeletting machines, and clicking machines." In all other respects it abandoned the contention that there was a monopoly in shoe machinery.

I may well say at this point, Mr. President, that when the United Shoe Machinery Co. was formed it was a combination of three fundamental machines—the Goodyear Shoe Machinery Co., the McKay Shoe Machinery Co., and the McKay Lasting Machine Co.—all different in their purposes, one supplementary to the other, but not in any degree competitive. All those machines have to do with the sole of the shoe or the heel of the shoe and attaching the sole and the heel to the upper. The United Shoe Machinery Co. does not furnish the machinery which is used in making the uppers of shoes. Much of that machinery is made by the Singer Sewing Machine Co., which puts out many machines a day where the United Shoe Machinery Co. puts out one for use in the shoe-manufacturing business.

It takes more than 60 different machines to make a shoe. In some shoes as many as 185 operations are gone through, 28 of which are by hand, even in these days of machinery making. Some of that handwork has been obviated very recently by the United Shoe Machinery Co., which has spent a million dollars in developing what is called the pulling-over machine, which simply means pulling the leather over the last and tacking or fastening the leather to the sole of the shoe. It leases those machines to manufacturers on a royalty basis of three-eighths of a cent a pair.

Now, if it were necessary to buy such machines at a cost of $3,000 or $3,500, in addition to the great number of other machines which are necessary in making a shoe, it would be impossible for the smaller shoe manufacturers to purchase sufficient equipment to conduct their business. More than half of the 1,300 shoe manufacturers in the United States manufacture less than 700 pairs of shoes a day. They conduct a small business, but are able to undertake the business because they can lease machinery of the United Co.

Mr. OVERMAN. I feel curious on one point, to know what would be the cost, in making one pair of shoes, of the royalty paid for the use of these machines.

Mr. WEEKS. The highest possible machinery cost in making shoes is less than 6 cents a pair. The average is 2⅔ cents a pair. There are some grades of shoes where the cost is less than 1 cent a pair. On all the McKay shoes, not Goodyear shoes, manufactured in this country the machinery cost averages 1½ cents a pair. It is the only element entering into the manufacture of shoes which has not increased in cost since the organization of the United Shoe Machinery Co. in 1899.

Mr. BORAH. The Senator from North Carolina asked the Senator what would be the royalty derived for making a pair of shoes by those who own the machines. Is that the way the Senator understood the question?

Mr. WEEKS. I understand that it is less than 6 cents a pair.

Mr. LIPPITT. If the Senator will yield to me a moment, does he mean by machinery cost the royalty cost?

Mr. WEEKS. The royalty cost.

Mr. LIPPITT. The price of the royalty?

Mr. WEEKS. The price of the royalty.

Mr. WEST. I thought the Senator said it was a cent and a half.

Mr. WEEKS. I said the highest possible cost is less than 6 cents a pair, and that in the McKay shoe the average machinery cost is 1½ cents a pair, and of all the shoes made by machinery in this country, 300,000,000 pair, the average machinery cost is 2⅔ cents a pair.

Mr. MARTINE of New Jersey. I should like to ask the Senator how the other cost for a pair of shoes is made up. In material——

Mr. WEEKS. The other cost is made up in material, overhead cost, labor cost. The labor cost of making a pair of shoes is 22 per cent of the total cost.

Mr. MARTINE of New Jersey. But the machine takes the place of the former individual labor.

Mr. WEEKS. Oh, no; the Senator has not investigated the subject. The actual labor cost of making shoes is 22 per cent to-day. It is 22 per cent of the cost of the shoe, in addition to which the machinery cost may be from two-thirds of a cent a pair to 6 cents a pair.

Mr. MARTINE of New Jersey. Even admitting that fact, it would seem that we are paying to somebody an inordinate price for shoes.

Mr. WEEKS. The average profit made by shoe manufacturers in the United States on all shoes sold is less than 7 cents a pair. Take shoes like those the Senator is probably wearing now. I presume that he paid $5, the retail price.

Mr. MARTINE of New Jersey. The Senator is about right.

Mr. WEEKS. The cost of those shoes was about $3 a pair to the manufacturer—probably $2.75, but call it $3 a pair. Of that cost 66 cents, or 22 per cent, went to labor; and of that cost not over 4½, probably not over 4, cents a pair was machinery cost.

Mr. MARTINE of New Jersey. I know this fact. I have come in contact with a good many of the unfortunate and lowly in my walks in life, and I have come in contact with many of those who are making shoes and who have a pegging machine, a lasting machine, or whatever else. I have talked with a number of them, and they all of them rebel that they can not own their machines. I can not recall an instance where they have not rebelled at the thought that they had to hire the machines. I recall a German who said in his broken tongue that he felt when he had really to pay his money that he should have the right to own his machine and not be restricted to buy his thread, his wax, his pegs, and God knows what—all that went into a shoe—from the company that leased these machines. I heard his tale.

Then I have heard the tale of a very distinguished and delightful gentleman whose name is Barbour, of the Barbour flax thread that enters into shoes. I happen to know Mr. Barbour, who is a multimillionaire, a fine type of a fellow, who had an ambition to run for Congress once in New Jersey. He lives in Paterson. But he was annihilated in the contest for votes. It was Mr. Barbour's idea that it was a great blessing for the shoe man that he could not buy his machines, that he had to lease them; and, by the way, he is largely in the Shoe Machinery Co.

Now, there were two sides; one was the poor devil who was using the machine, the other was the millionaire who was getting a profit out of it. They viewed it through different lenses. It does seem to me that there ought to be some way to get together. I do not know that it is unfortunate to be a shoemaker, but they work hard and long and get but little compensation. It does seem to me that there should be some way whereby the man who owns these privileges and patent rights should be reasonably satisfied and that the fellow who sits bending over his last at the tiresome task of making shoes the day long should have the right to own that which he was quite willing to pay for. I think it is an awful evil.

I happen to know this gentleman, Mr. Barbour, that I speak of. He is a multimillionaire, as I said, a fine, genial gentleman, a very good, loyal friend; and I know other poor men

with whom I come in contact, and I very often ask myself, in God's name, is there not some way by which these two ends may be reasonably and yet fairly satisfied?

Mr. WEEKS. Has the Senator finished?

Mr. MARTINE of New Jersey. Yes, sir.

Mr. WEEKS. I do not know anyone who could make a more tearful plea for the manufacturer than the Senator has just made, but if he will take the trouble to examine the record of the hearings before the Judiciary Committee of the House or the Interstate Commerce Committee of the Senate, he will not find a single word from a manufacturer of shoes who manufactures less than 10,000 pair a day protesting against this process which he is now criticizing, and I will say to the Senator, if this legislation takes effect, instead of having 1,300 shoe manufacturers in the United States, some of them—the little fellows he is speaking of—will be eliminated, so that we will have a monopoly in the shoe-manufacturing business, something that would be a thousand times worse than that complained of in the case of machinery. Attempts are being made now—and I intend to show, before I get through, the animus of this attack on the United Shoe Machinery Co.—for attempts are being made by those who manufacture on a large scale to break down this system so that they may get their machines on different terms from those made to the smaller men, so that they may control the manufacture of shoes in this country.

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDING OFFICER (Mr. THORNTON in the chair). Does the Senator from Massachusetts yield to the Senator from New Jersey?

Mr. WEEKS. I always yield to the Senator.

Mr. MARTINE of New Jersey. I do not speak with any desire to be bitter or to be unjust or unfair toward these men.

Mr. WEEKS. I understand the Senator.

Mr. MARTINE of New Jersey. As I said, the gentleman whose name I mentioned I know very well. He is a most companionable and delightful citizen. But I speak from the humanitarian side. My sympathies are very quickly and very easily reached. Perhaps some of my fellows here have discovered it. My heart has ached under the present situation. It has seemed to me that with the wonders of our progress and our intelligence and our ingenuity we should devise a plan somehow soon, whereby both these men might meet on fair ground, with ample and reasonable compensation and justice to both.

Mr. WEEKS. Mr. President, the Senator's heart will not ache for the particular individuals to whom he is referring if this legislation goes into effect, because they will be out of business. They could not continue business if they had to buy the more than 60 machines that are used in manufacturing shoes. Some of those machines cost a thousand dollars apiece. I referred to the pulling-over machine which would have to be sold at $3,500 apiece. The very fact that these machines are leased on a fair basis, I think, enables the smallest man to start a shoe-manufacturing business, and that is the reason why the industry is so thoroughly distributed in the United States to-day. As I have said, more than half the manufacturers manufacture less than 700 pairs a day.

Mr. OVERMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. WEEKS. Very gladly.

Mr. OVERMAN. The Senator from Missouri [Mr. REED] contends that the teeth have been extracted from this measure. I understand the Senator from Massachusetts to say if it goes into effect there will be a monopoly of shoe machinery.

Mr. WEEKS. I wish to frankly say that I do not expect to influence anyone by what I am saying. The United Machinery Co. is a Massachusetts corporation. It employs something like 3,000 to 4,000 men. It pays them the highest average pay paid to any similar number of employees in any industry in the United States or in the world. I am interested that such an enterprise shall be fairly represented on the floor of the Senate, and it is for that reason that I am trying to explain to the Senate and trying to put in the RECORD what the United Shoe Machinery Co. is, what it has done or is doing, and I am trying to point out that it is not the reprehensible corporation which it has been held to be in the discussions which have taken place.

Mr. WEST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. WEEKS. Gladly.

Mr. WEST. Before the Senator from Massachusetts drifts away from that part of the subject in reference to the making of shoes, he said a few minutes ago that it took 66 cents to pay for the labor and there was a payment of 4 cents on the machinery.

Mr. WEEKS. I said for such a shoe as would retail at $5.

Mr. WEST. I wear a pair of shoes bought in this city for which I paid $6. I am curious to know where the balance of that $6 goes; 70 cents goes to the machinery and the labor; where the balance of it goes is what I am curious to know. Of course there is some part of the cost in the material.

Mr. LIPPITT. Will the Senator yield to me? Before answering that question perhaps the Senator will state what the wholesale price is of the shoe that retails at $6.

Mr. WEEKS. I will. Of course I am not attempting to give accurate figures, because they will vary with varying cases; but the labor cost is about, as I said, 22 per cent of the cost. The other costs to the manufacturer are the cost of his material, the overhead charges, and all the expenses that go to make up the cost in any manufacturing establishment; but in the case of a shoe that would sell at four dollars and a half, we will say, the cost of manufacture would be about two dollars and a half.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. WEEKS. Just let me finish this sentence, please. It would be about two dollars and a half, possibly two dollars and seventy-five cents. The wholesaler would make, perhaps, 5 cents a pair, certainly not over 10 cents, and probably, ordinarily, not over 5 cents. It costs about 33 per cent of the selling price of shoes to retail them. Therefore, if you take a shoe selling at $4.50, 33 per cent of that would be $1.50, which would be the cost of retailing. The retailer may make 10, 15, or 20 cents a pair profit; the wholesaler may make 5 cents a pair on shoes costing the manufacturer $2.70 a pair. The average profit which the manufacturer makes on all the shoes made in the United States, as I said before, is about 7 cents a pair. I yield to the Senator from Missouri.

Mr. REED. The royalty collected by this shoe machinery company may run as high as 6 cents a pair.

Mr. WEEKS. It may run as high as 6 cents a pair.

Mr. REED. So the royalty collected by this one company may be almost equivalent to the profits of the manufacturer who has taken all the chances of the business and who has done all the work of producing the shoe.

Mr. WEEKS. That may be the case, but the Senator——

Mr. REED. Does the Senator think——

Mr. WEEKS. Just a moment. The Senator will recall that in the McKay shoe the average royalty is 1½ cents a pair, and there are more McKay shoes made than all the others put together, and that the average royalty paid for all shoes is only 2⅜ cents a pair.

Mr. REED. The Senator spoke about the organization of these three companies into one company, which is now the United Shoe Machinery Co. Does the Senator know the name of the attorney who worked out the legal problems of that consolidation?

Mr. WEEKS. I presume that there was more than one attorney engaged in doing it. One of the attorneys, who was for a long time a director of the company and who, I have understood, drew the leases which have been in operation ever since, was Mr. Brandeis.

Mr. REED. That is Mr. Louis D. Brandeis?

Mr. WEEKS. Yes.

Mr. REED. The reformer. I understand the Senator to say that he understood Mr. Brandeis had also drawn the leases which this company has been using?

Mr. WEEKS. I have been informed that Mr. Brandeis drew the original leases which the shoe machinery company used and which they are using to-day substantially as they were originally drawn.

Mr. REED. The Senator spoke this morning of the allegations upon which the Government is now standing in the suit against the Shoe Machinery Trust, and therefore I conclude he must be familiar with that litigation. I want to ask him if it is not a fact that one of the main allegations in the Government's suit is that these contracts which the Senator says were drawn by Mr. Brandeis are violative of the Sherman Act?

Mr. WEEKS. The Government's contention has been modified very materially since it was originally made, but the Government is contending that the United Shoe Machinery Co. is a monopoly, and has brought suit to dissolve the monopoly.

Mr. REED. I want to call attention, if I am not interrupting the Senator against his will——

Mr. WEEKS. Not at all; I am glad to yield.

Mr. REED. I call the Senator's attention to the seventh section of one of those contracts made the 3d day of August, 1910, between the United Shoe Machinery Co. and the Commonwealth Shoe & Leather Co. Section 7 reads as follows:

7. If at any time the lessee shall fail or cease to use exclusively welt sewing and outsole stitching machinery held by him under lease from the lessor, in the manufacture of all "welted" boots, shoes, or other footwear made by or for him, the welts or soles of which are sewed by the aid of machinery, or shall fail or cease to use exclusively turn sewing machinery held by him under lease from the lessor in the manufacture of all "turn" boots, shoes, or other footwear, the soles of which are sewed by the aid of machinery, the lessor, although it may have waived or ignored prior instances of such failure or cessation, may at its option terminate forthwith by notice in writing this lease and license and any other lease or license of "Goodyear department" machinery then existing between the lessor and the lessee, whether as the result of assignment to the lessor or otherwise; and the possession of and full right to and control of all the leased machinery and all "Goodyear department" machinery held by the lessee under lease or license from the lessor or its assignor shall thereupon revest in the lessor free from all claims and demands whatsoever.

I understand that to be what is commonly known as the tying clause of these contracts. I understand that that tying clause is the work of the legal ingenuity of Mr. Brandeis. If I am able to interpret it, it vests in this company the power to take out of any factory machinery obtained from it which it has heretofore used or which it is now using; that no matter how long the lease may run under its terms, no matter what the conditions of the sale may have been, there is vested in this shoe machinery company the right to enter the premises where the machinery is installed and take it out if the lessor ventures to use any one of these machines that are named which was not obtained from this company. I want to ask the Senator if those facts do not constitute one of the main grounds of the attack by the Government to-day in its suit?

Mr. WEEKS. Mr President, that is one of the grounds.

Mr. REED. I want to ask the Senator if that system were to be extended and generally employed by those who may possess some patented article of great value if it is not possible under it for the owner of a patented article to practically establish a monopoly not only over the patented article, but over a great number of machines which he may manufacture.

Mr. WEEKS. Mr. President, as a definite statement I think the Senator is correct, but there are modifications which would apply to the United Shoe Machinery Co. which I will, when I have an opportunity, indicate to the Senate.

Mr. REED. The Senator has stated that Mr. Brandeis drew this contract. I want to ask the Senator if this particular form of contract was not attacked in the Legislature of Massachusetts and some legislation attempted to make it impossible to make this kind of a contract?

Mr. WEEKS. It was, Mr. President.

Mr. REED. Does the Senator know who at that time was representing the Shoe Machinery Co. in resisting that legislation?

Mr. WEEKS. The information I have on that subject is contained in a letter which I have before me, which was included in the hearings before the Committee on Patents of the House of Representatives. A letter written by Mr. Coolidge, treasurer of the United Shoe Machinery Co., to Hon. CALVIN D. PAIGE, who represents the fourth district of Massachusetts, who was a member of that committee, in which he says, speaking of Mr. Brandeis:

Mr. Brandeis helped to organize the United Shoe Machinery Co. Prior to 1899 he was a director of the McKay Shoe Machinery Co., one of the three noncompeting concerns from which our company was formed. He was one of the first directors of the United Shoe Machinery Co. and one of its legal advisers, and as a lawyer he helped to draft the leases which he now denounces. Assuming that he felt then as he says he feels now—that the director of a company occupies a fiduciary relation to its stockholders—he must have believed himself responsible for the character of our leases, even if he had not helped to draw them; yet throughout his association with our company he never criticized them, and in 1906 he appeared before the Massachusetts Legislature to defend the very methods which he now attacks.

And later in that letter Mr. Coolidge says, speaking of an opinion by him to Charles H. Jones, his client. In this published opinion he assured Mr. Jones—this is the quotation:

The leases being invalid, you can not be liable for failure to perform.

Mr. REED. I wish to ask, after the Massachusetts Legislature passed the bill which restricted the right to make leases of this character, whether the Senator knows who it was who devised the plan to escape the effect of that law, the plan being to simply add a clause giving a right to terminate the lease—the clause, indeed, that I read a moment ago, and under which the proprietor of the machinery or lessor of the machinery can go into a man's factory the moment he puts in a machine that he did not make and take out all the machines there are there and close down his business and ruin him? I wish to ask if the Senator knows whether Mr. Brandeis devised that means of meeting the statute of Massachusetts?

Mr. WEEKS. No, Mr. President; I have not any information on that subject.

Mr. REED. I want to ask the Senator, if I am not too much trespassing upon his time, if he knows who it was who first introduced into the House of Representatives a bill containing what is now substantially section 5 of the Trade Commission bill, section 5 being the provision that "all unfair competition is hereby declared to be unlawful"?

Mr. WEEKS. Mr. President, I do not recall who introduced it.

Mr. REED. I will say to the Senator that that bill was introduced by Representative STEVENS of New Hampshire. Representative STEVENS of New Hampshire also introduced at about the same time House bill 13305, entitled "A bill to prevent discrimination in prices and to provide for publicity of prices to dealers and to the public," a clause of which reads as follows:

That in any contract for the sale of articles of commerce to any dealer, wholesale or retail, by any producer, grower, manufacturer, or owner thereof, under trade-mark or special brand, hereinafter referred to as the "vendor," it shall be lawful for such vendor, whenever the contract constitutes a transaction of commerce among the several States * * * to prescribe the sole uniform price at which each article covered by such contract may be resold.

Then follow some qualifying provisions.

I want to ask the Senator from Massachusetts if he does not know that that bill was introduced at the request of the American Fair Trade League, and that Mr. Ingersoll, the president of the Ingersoll Watch Co., is the president of the American Fair Trade League; and if he does not also know that Mr. Brandeis is his attorney?

Mr. WEEKS. I have not any information on that subject.

Mr. REED. Well, evidently I have gotten into a field that the Senator from Massachusetts has not been over.

Mr. WEEKS. I have no information at all on the subject.

Mr. REED. The Senator from Massachusetts has stated that Mr. Brandeis did draw the contracts of the Shoe Machinery Trust. Does the Senator know at what time Mr. Brandeis severed his connection with that concern as attorney or officer?

Mr. WEEKS. Mr. President, in that particular I have quoted what is a part of the public record in relation to Mr. Brandeis's association with the organization. As an attorney for the United Shoe Co. in 1906 he did appear for the company before the legislature. Since that time he has been employed by others than the Shoe Machinery Co., and he has publicly attacked the laws which he is supposed to have had a very potent hand in drawing.

Mr. REED. Does the Senator from Massachusetts know whether Mr. Brandeis had anything to do with instigating the litigation that is now pending and furnishing information?

Mr. WEEKS. I have no definite details, Mr. President, but Mr. Brandeis has represented those who have been very active in attacking the Shoe Machinery Co., particularly Mr. Charles H. Jones, of the Commonwealth Shoe Co. of Massachusetts.

Some time ago, Mr. President, I was referring to a report which had been made by the Committee on Patents relating to this subject, and I indicated that, in my judgment, there was no statement in that report which was accurate; that some of the statements were very far from having any basis; and that the records of the United States court in Boston would bear out the truth of my contention. Now I am going on to read some of the replies to the statements made in the report from which I have read:

The record shows—

That is, the record of the United States court—

without contradiction, that of the 1,300 to 1,500 shoe manufacturers of the United States, the United Co. leases machines to not more than 1,033, and to many of these it leases only one or two machines of the hundreds which they use.

Incidentally, and perhaps properly to be referred to at this time, one of those who have attacked the United Shoe Machinery Co. for years is Mr. Richard H. Long, of Framingham, Mass., a shoe-machinery manufacturer and a shoe manufacturer. Mr. Long manufactures what is known as the Waldorf shoe, a shoe well known in the trade, which he sells through his own stores. Mr. Long has not to-day, and he has not had for years, a single machine in his factory put out by the United Shoe Machinery Co.; all of his machines are machines of his own manufacture or of the manufacture of some other than the United Shoe Machinery Co.

The reason why manufacturers use the machinery of the United Shoe Machinery Co. is because it is the best machinery; it is a test of efficiency, pure and simple; it is not a question of a lease or of a tying clause or of a sale or of anything of that kind.

The United Shoe Machinery Co. puts out something like 300 different machines. Most of those machines may be purchased or leased, at the option of the user. It is only the three fundamental machines relating to those parts of the shoe to which I have previously referred which are leased, and only leased.

I want to say now, for fear that I may overlook it, that not only are these machines leased to every manufacturer in the United States, large and small, East and West, North and South, on exactly the same terms, but they are leased to every manufacturer in Europe who uses the machines on exactly the same terms. The United Shoe Machinery Co. manufactures machines in England, in France, and in Germany, and it leases to the foreign manufacturer those machines which are manufactured where the labor cost is hardly more than one-third of what is the labor cost in the United States on exactly the same terms the lease is made in this country.

I think I ought to say here that one reason why we dominate—and it is the main reason—the shoe-manufacturing business not only of this country, but of the world, is because of the perfection of the machinery which has been developed by this company. I have any amount of testimony here from manufacturers—and Senators can find it in the reports to which I have referred—relative to the excellence of this machinery. We not only provide ourselves with shoes in this country, but we are exporting shoes—a very unusual thing for us to do under the tariff conditions which obtain—because we make them in this country to fit the foot. We have developed the last and machinery to such perfection that we are able to furnish any shaped foot with a shoe. Senators will recall that 20 years ago when they bought a ready-made shoe they almost invariably had to break it in at considerable pain and trouble. Now you can go into any 1 of 20 shoe stores down here on Pennsylvania Avenue and the salesman will fit your foot with a shoe, so that you walk off with as much comfort as if you had worn it for a month. That is due not only to the perfection of the lasts, which we have developed in this country, but to the perfection of the machinery in making the shoe, and very largely to the Goodyear welt, which is the best form of shoe we have developed and of which there are made in this country probably twenty times as many as there were when the United Shoe Machinery Co. was formed 15 years ago.

Now, to proceed with the answers to the statement in this report of the House Committee on Patents:

Second. The record shows without contradiction that of the 1,300 to 1,500 shoe manufacturers of the United States the United Co. leases machines to not more than 1,033, and to many of these it leases only one or two machines of the hundreds which they use.

Third. The record shows that the United Co. offers to all manufacturers leases of its leased machines without any tying clauses whatever. The tying clauses are used at the option of the shoe manufacturer in connection with wholesale and cheaper methods of obtaining the use of the company's machines. Where he takes the leases with the tying clauses in them, he does so because he prefers those leases.

Fourth. The company requires manufacturers to buy nails or wire or eyelets of it only when they lease machines, the entire payment for the use of which is comprised in the price charged for the nails or wire or eyelets. The company does not require wax or any other necessities of the industry to be bought of it, either "under penalty of having machinery ripped from the factory without notice" or any other penalty.

There is a reason for buying nails and wire of a standard quality. A machine works well when the material with which it has to work is of the highest standard, but it may work badly if the material furnished for that purpose is of low standard. Knowing the standard of this product, in order to assure that the machines of this company will work satisfactorily, as they should work and do work, it has been considered advisable and desirable that the manufacturers using the machines should buy the nails and wire of this company at the price at which they would be purchased in the open market.

Fifth. The record shows that the company sells outright to all customers at uniform prices 170 different types of machines, or considerably more than half of the various kinds it manufactures.

Sixth. The record abounds in testimony from shoe manufacturers that the company has never interfered with their obtaining machines of other manufacturers and using them side by side with machines obtained from the United Co.

I want Senators to remember that I am reading from the record of the trial of this case in the United States court in Boston. I read further:

All the machines for stitching the uppers of shoes in every factory in the United States are obtained from manufacturers other than the United Co. Even the United States made no claim that the United Co. had a monopoly of machines for stitching the uppers of shoes.

It is unnecessary in detail to further refute the assertions made. The record in the case mentioned is a complete answer to them. The files of the Commerce Department of the United States show by the reports of its consular and other agents that the United States leads the world in the variety and excellence of its shoe machinery, and this result has been accomplished by the efforts of the United Co.

There probably has not been a year since the organization of that company that at least $500,000 has not been spent in developing machinery; and when the United Shoe Machinery Co. develops a new machine or an improvement on an old machine, it takes out the old machine and puts in the new one without any cost to the manufacturer, so that the manufacturer has the benefit of up-to-date machinery all the time. If Senators could go back to conditions which existed before 1899, before the organization of this company, and understand under what restrictions the shoe business was carried on on account of machinery then used, they would the better appreciate and value what this company has been to the industry. For instance, every manufacturer of shoes wishes to have as modern and up-to-date machinery as can be obtained. He would buy a machine which seemed to be all right which was so represented, but it had not been thoroughly tested, and as a result it would buck. It was necessary for the manufacturer to keep at hand a skilled mechanic all the time to make the necessary renewals and repairs. Under these conditions frequently such machines had to be taken out after they had done an amount of poor work, which would affect adversely the business of the manufacturer in addition to the actual loss involved.

The machines of the United Shoe Machinery Co. are thoroughly tried out before they are put in, and the Shoe Machinery Co. employs men, available at all times, to keep the machines in order, without any cost to the manufacturer except the cost of spare parts where new parts are needed. That policy is not only a benefit to the manufacturer, but it is of special benefit to the shoe workmen.

I have myself talked time and again with the employees of shoe factories in Massachusetts about the results obtained from this manner of conducting the business, and I never have seen a man who has not stated to me, "We get better results under the conditions to-day than we did in the old days when the machines were breaking down." "Why?" "Because frequently a machine would break down under those old conditions and the manufacturer would have to send for an expert to repair the machine and we would be laid off for half a day, sometimes for a day, before the machine would be ready to go on with its work. Now in 15 or 20 minutes, in any large shoe-manufacturing center, an expert can be obtained who makes the machine workable, so that the workmen can complete a day's work each day within reasonable hours."

Now, let me point out to you how it is a benefit to the small manufacturer. The extract which I will read is only one of hundreds of such from small manufacturers relating to this industry. It is written by Mr. R. O. Green, of Fort Dodge, Iowa, in which he refers to the advantages in very definite terms and denies the truth of many statements that have been made concerning the Shoe Machinery Co. Mr. Green says:

Now, as to any presumed extortion from the consuming public. What would be the result if we were operating under old conditions? Several different machines for doing the same operations would be on the market, some good, some bad, and some quite indifferent, but none of them with the efficiency of the machines in operation now, because the United Shoe Machinery Co. do not put out machines until they have been thoroughly tested and found absolutely perfect in their operation.

This is necessary from every point of economy, because their revenue depends upon the perfect and constant working of the machines, as most of the royalty is paid so much per pair. The shoe manufacturer is not a machinist. When, under old conditions, he bought a machine he had to buy it outright and take his chances on its doing the work as represented by the company selling, and also take his chances on an improvement being made at any time which would make his machinery worthless. He would have to employ an expert machinist, competent to take care of all his machines, which could hardly be done, for the United Shoe Machinery Co. people find they have to and do employ separate machinists for each system of machines. If such a machinist could be employed, he would be a very high-priced man, and the ordinary manufacturer could not afford to pay the price, and if they did they would have to add the extra cost to the cost of the shoe. So, taking the expense incurred by depreciating machinery, which would be constantly occurring in large degree, other than ordinary wear and tear on account of continual supposed improvement, together with the large expense of employing at high salaries expert machinists to take care of and keep in repair the machines, the cost per pair over what it now costs would conservatively amount to four or five times as much as the present royalty system involves. What would be the result? Every small concern, and, in fact, every concern except the very largest, would be forced out of business, because they would not have capital enough to keep up their machinery account and employ the high-priced experts to take care of it, and we would have a shoe manufacturers' trust far more formidable and costly to the consumers than under present conditions. The fact is that under the admirable organization of the United Shoe Machinery Co. the industry of shoe manufacturing is stimulated, so that any energetic, capable person with a little money can go into the shoe-manufacturing business.

I will not quote further, but there is much more to the same general purport in the letter.

I have here a statement made by Hon. James M. Curley, the present Democratic mayor of Boston. I presume Mr. Curley, before he had investigated, might have had in his own mind some doubt about the value of the policy which was being carried on by this company, but it seems that last summer he made an investigation, and I quote from a statement which he

made which was published in the Boston papers. Mr. Curley said:

I sincerely wish that it were possible that every public man, especially our State and National officials, visit this industrial institution that they might grasp at first hand the grand work that the United Shoe Machinery Co. is striving to do, that the benefits it affords its home community, the State, and eventually the Nation might be comprehended. The policy of the State and National Governments would no longer persevere in the channels recently chosen, secondhand information would no longer be accepted in substitution for facts, bitter and unfounded attacks would be constituted a crime. The Government instead would throw about beneficent companies of this character a protecting arm, warding it from abuse, suits, and legal entanglements which it now places in its path, that its energies be allowed to develop and be conserved for larger and more highly efficient industry.

Look about you. New England cities and towns are dotted with shoe factories owned by whom? By the young men of New England, small manufacturers who have prospered and developed under the liberal policy of the United Shoe Machinery Co., and to-day many of them are beyond the state of immediate financial worry. Young men, and in New England there are hundreds of them, who have nothing to offer this company as security but brains, energy, perseverance, and an expert talent for making good shoes, have by the policy pursued by this company become successful manufacturers, grown and fostered by the United Shoe Machinery Co.

There is more of it, but that is an indication of what the mayor of Boston said after he had made an examination of the premises and the manner of conducting the company's business.

Mr. President, what is the incentive for this legislation? Who has been creating the public sentiment which has apparently brought this company into such disfavor with legislators and in other ways? Why, it is none other than those who want to break down the policy which this company has been following in order that they may profit thereby. It is not the small manufacturer, for he has profited by their policy; but it is the large company that wants to break down that policy so that it may buy its machines on better terms than the small company can do, at wholesale prices, so to speak, for it knows that the little fellow can not raise the capital to buy the machines, and as a result the business would become concentrated. There is no doubt this would be the result if this bill becomes a law and the United Co. is compelled to change its method of doing business.

My friend the junior Senator from Missouri [Mr. REED] put into the RECORD yesterday a telegram from the International Shoe Co., of that State, and also a telegram from John C. Roberts, commending him for what he was doing in connection with this legislation, and showing a particular leaning against the United Shoe Machinery Co. As those telegrams are in the RECORD, I will not read them now; but I want to say, before I overlook it, that Mr. John C. Roberts, who was referred to as the editor or the owner or the manager of the St. Louis Star, is one of the firm of Roberts, Rand & Johnson, shoe manufacturers of St. Louis, which is now a part of the International Shoe Co.; and, therefore, when a telegram is printed here from the International Shoe Co., it may be presumed that it is from Mr. Roberts as well, so no additional weight can be given to the telegram, which has been printed in the RECORD from Mr. Roberts.

What is the International Shoe Co.? This company has an authorized capital of $25,000,000 and an issued capital of $21,000,000. They have the largest capacity of any shoe manufacturing concern in the world—over 50,000 pairs of shoes a day. There are very few concerns in the United States which have a capacity of 10,000 pairs a day. Of the 1,300 shoe-manufacturing concerns in the United States, the United Shoe Machinery Co., as I have stated, leases machines to about 1,000, and to many of these it leases only one or two machines of the hundreds which are used. Of the 1,000 shoe-manufacturing concerns in the United States which get machines from the United Co., 750 make less than 500 pairs a day. In other words, the International Shoe Co. has a capacity which is more than the equivalent of 100 of these smaller concerns, and these smaller concerns, almost without exception, are partnerships or individually owned. There are very few corporations engaged in the shoe-manufacturing business which have a capacity of 5,000 pairs a day.

The International Shoe Co. comes nearer than any other concern in the world to being a shoe trust, and it is constantly reaching out for more. The only thing that stands in its way is the United Shoe Machinery Co., and that, in my judgment, accounts for its animus against that company. Its methods of doing business, enabling the small manufacturer to get this machinery on the same terms as the larger company, prevents the International Co. from extending its operations indefinitely, as it otherwise would do.

The value of the different concerns which went to make up the consolidation now called the International Shoe Co. at the time the consolidation was made was about eight and a half million dollars, or one-third of the authorized capitalization of the combination.

I am simply giving this information because I want Senators to have clearly in their minds some of the animus behind this attack on the shoe machinery company.

The International Shoe Co. is, in the amount of its authorized capital, two-thirds as large as the United Shoe Machinery Co., which is being attacked. It was formed by the combination of many concerns, most of which were originally in competition with one another, selling their shoes in the South and Southwest. The combination now includes 11 formerly independent concerns and controls 21 factories in Missouri and Illinois. The nucleus of the combination was the firm of Roberts, Johnson & Rand, of St. Louis, which had developed a large business from a small beginning while using the United Shoe Machinery Co.'s machines on the very terms which they now denounce as oppressive and tyrannical.

They never had made shoes at all until after the organization of the United Co. The Roberts, Johnson & Rand Shoe Co.'s first attempt at monopolizing the southwestern shoe business was early in 1911, when they tried to effect a combination of the four largest shoe-manufacturing concerns in St. Louis, known at that time as the "big four"—the Roberts, Johnson & Rand Shoe Co., the Hamilton-Brown Shoe Co., the Brown Shoe Co., and the Peters Shoe Co. These concerns at that time did a business of about $80,000,000 a year. Prior to that time the Roberts, Johnson & Rand Shoe Co. had taken over the plants of three independent companies—the Jerseyville Shoe Co., of Jerseyville, Ill.; the Star Shoe Co., of Hannibal, Mo.; and the Desnoyers Shoe Co., of Springfield, Ill. Hamilton-Brown and the Brown Shoe Co. preferred to remain independent; but in December, 1911, the International Shoe Co. was organized, taking over the business of the Roberts, Johnson & Rand Shoe Co. and the Peters Shoe Co. This gave them the control of 16 factories, 2 of which were in the State of Illinois and 14 in the State of Missouri. Ten of these had been managed by the Roberts, Johnson & Rand Shoe Co. and 6 by the Peters Shoe Co.

December 10, 1912, the International Co. took over the business of the Friedman-Shelby Shoe Co., who were then operating five shoe factories in Missouri. The Friedman-Shelby Co. was itself a combination, having taken over three independent plants—the Morris Bros. Shoe Co., of Mexico, Mo., in October, 1907; the Giesecke Boot & Shoe Manufacturing Co., of Jefferson City, Mo., in January, 1910; and the Giesecke-D'Oench-Hays Shoe Co., of St. Louis, in January, 1910.

On August 1, 1913, the International Co. took over the business of the Sterling Shoe Co., in Belleville, Ill.

In July, 1912, after the retirement from business of the Monnig Shoe Co., the International Co. obtained possession of that plant in Marshall, Mo.

It is not necessary for me to discuss any other phase of this attack on the United Shoe Machinery Co., as applied to large companies, than simply to give the details which I have given of the organization of the International Shoe Co. It in itself, as far as it can be, is a combination intended to dominate the shoe-manufacturing business in the section of the South and Southwest which is tributary to its factories; and, as far as it has been able to do it, it has done so, so that to-day it is the largest shoe-manufacturing concern in the world. All of the attacks—and the records bear me out in this statement—that are made on the United Shoe Machinery Co. are made by concerns similar to the International Shoe Co., big people doing a large business, who want to get their machines at wholesale prices and under such conditions that the small manufacturer can not buy them. That is the animus behind this whole attack.

Mr. President, I do not desire to delay the Senate any longer in a discussion of this subject, except to read from a statement made by Mr. Frederick P. Fish, the great patent lawyer of Boston, one of the leading lawyers of the United States, in an argument which he made to the court in closing the case which the Government brought against the United Shoe Machinery Co., and I read it because it states in very definite terms the value of this company to shoe manufacturing. He has been discussing the reason for the attacks made on the company, and continues by saying—

And why? Simply because this defendant company has succeeded in doing what the public wanted; that is, in giving the best possible shoe machines, in organizing absolutely and radically new methods of dealing with and promoting the interests of its customers, in establishing new relations with them that were not foreshadowed, and which are not imitated to-day in any other business, in accordance with which this United Shoe Machinery Co. is the engineer for the shoe manufacturers; it is the organizer for the shoe manufacturers; it tells them how to lay out their shops; it tells them how to do their business; it trains their help; and it finances them to the full extent of the machinery which it supplies. Thirty-five million dollars of the property of the shoe-machinery company is in the hands of these shoe manu-

facturers. It finances them, as I say, to that extent. It keeps those machines in repair, so that the shoe manufacturers have no question of maintenance, no cost of maintenance to deal with. It in every way looks after their interests. It sees that information calculated to make the operation of the machinery more effective is collected and disseminated throughout the factories. It makes it possible for them to avoid that tremendous difficulty that is in the way of every manufacturer, of knowing what his costs are as far as his machinery is concerned, for there is no question of cost, no question of depreciation. The shoe manufacturers who deal with our company do not have to be on the watch to get the best possible machines. They know that the defendant will supply them with the best. They run no danger of making mistakes in their machinery. Everything is tested out to perfection before it comes to them. They know that their machinery is the best in the world, and that if better is devised they will surely have it.

I want to emphasize that by saying that when an improvement on a machine is made by the United Co., it takes out the old machine and puts in the new one without any cost to the manufacturer.

There is nothing for them to look after except the question of labor, the purchase of material, the design of their goods, and selling them. And there is, as I say, no business in the world which even imitates that of the defendant in these respects.

Mr. President, as I stated in the beginning, I have engaged in this desultory discussion of the business conducted by the United Shoe Machinery Co. because I do not believe the people of this country appreciate what is being done in the legislation which we are about to put on the statute books. Nobody knows what the result is going to be; but in a case of this kind, in an attempt to destroy what is termed a monopoly, which the courts are passing on or will pass on, we are going to do the very thing which will create a monopoly of the shoe-manufacturing business of this country as surely as the sun rises. That possibility should cause some halt to the endeavors to put this legislation on the statute books.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Massachusetts yield to the Senator from Michigan?

Mr. WEEKS. I do.

Mr. TOWNSEND. Before the Senator from Massachusetts takes his seat, I wish to say that I have listened with a great deal of interest to his argument, and to me it seems that he has certainly made out a case in favor of the benefits which can come from this machinery; but that being true, there is one thing that I can not quite understand. As I understand, the objection to these contracts is because of the provision which prohibits the lessor from using any other machinery than that of the United Shoe Machinery Co. in the manufacture of shoes. Now, if it is for the benefit of the small manufacturer to lease these machines instead of expending the money necessary to buy them, if they are the best machines that can be put upon the market, why is it necessary to have that clause in the contract?

Mr. WEEKS. Mr. President, the Senator from Michigan, who has been good enough to listen to a large part of what I have been saying, evidently was not present when I tried to explain that provision. In the first place, the only tying clause that applies to any of these machines applies to the three fundamental machines made by the Goodyear Co., the McKay Co., and the McKay Lasting Machine Co. The United Shoe Machinery Co. puts out about 300 machines altogether, and, with the exception of half a dozen machines, it offers to sell or lease any of these machines, or all of them, at the option of the manufacturers, who take them under the lease provision rather than buy them, because it is more economical for them to do it. It does not require as much capital to go into the business, and the net results have proven distinctly to the advantage of the manufacturer

It is only these three fundamental machines to which the tying clause is applied, and that is applied only because those machines are supplementary to one another. They are not in competition in any way. One does one thing in connection with the making of a shoe and another does another thing. Now, if one of these machines were operating on a shoe and the machine of some other manufacturer were employed in carrying on the operation, there might be such defects in the connecting link that the results would be unsatisfactory to the manufacturer himself.

I am not a shoe manufacturer and I am not an expert in these details, but at one time I did give a great deal of attention to this question, because it seemed to me there must be some reason why, in this particular industry, we dominated the whole world, not only in making shoe machinery, but in making shoes; and I came to the conclusion that it was due to the perfection of the machinery and the manner in which it was leased or sold to the manufacturer.

I do not know that there would be any result which would be harmful to the companies or harmful to the public if these tying clauses were entirely done away with; but, knowing the character of the individuals and the companies which are fomenting this attack on the United Co., I am fearful that they have in mind a combination in manufacturing shoes which will make the combination of the United Shoe Machinery Co., admitting that it is as bad as its detractors claim, look, not like 30 cents, but like 3 cents. [Laughter.]

I want to see the American people get good shoes at the lowest possible price, and I believe they are doing it under the system which now prevails.

Mr. WEST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. WEEKS. I do.

Mr. WEST. Before the Senator takes his seat, I have one question to ask. I see that the Senator is thoroughly familiar and conversant with the subject he is talking about.

My question is this: I understood the Senator to say that the United Shoe Machinery Co., in making and putting out these machines, requires the use of certain nails and wire, perhaps, that the machine uses. I understand why it would be necessary, if there was a given kind of a superior make, for them to use it, because it would result in the machine turning out superior work. Do they go any further than that in the requirements?

Mr. WEEKS. These requirements are only in the case of wire, nails, and eyelets used by the three fundamental machines to which I have referred. The Senator can see very well that there is ample reason for requiring that. If an inferior nail or an inferior piece of wire were used, the result would not be satisfactory to the user of the shoe, and the blame for the failure might be with some propriety laid to the machinery rather than to the material which was furnished by some one other than the maker of the machinery.

Mr. WEST. I understand that thoroughly, and it is entirely true; but what I wanted to know was whether the manufacturers of these machines went any further than that requirement.

Mr. WEEKS. Wire, nails, and eyelets are the only things to which it applies, as I understand it.

Mr. CHILTON. Mr. President, in discussing the Clayton bill and kindred legislation it is impossible to disassociate the subject from the distinguished Senator from Missouri. All through the discussion he has impressed his strong personality and his peculiar views upon the Senate. He was one of the chief antagonists of section 5 of the trades commission bill, which section condemns unfair methods of competition, and he brought to bear his admitted powers of debate and his skill as a parliamentary tactician to prevent that section from becoming the law of the land. The Senate and the House have both decided that proposition against him, and some of us fear that there are evidences in the debate upon the pending bill which indicate that he has not wholly adjusted himself to the new situation. It is useless for me to state that in discussing the report of the conference committee, or in any other discussion on the subject, I would not, even if it were necessary, make an assault upon him nor condemn him for any position which he has taken. The business of the Senate is to search for the truth, find every avenue for discovering truth, and then apply the truth in legislating for the people, and I have nothing to say about individual motives. Much as I disagree with the distinguished Senator's argument, I could not find it in my heart to fire even a dough bullet at him personally, and even though he has strayed away, in my judgment, from the true standards of legislation on the trust question now open to the Congress, I must admit that the Senator has made his circuitous road pleasant with song and poetry and has garlanded every by-path of nonessential with the choicest flowers of rhetoric. He has made even error plausible and musical, and has clothed his theories with a presentable coat, even though it be, like Joseph's, "of many colors." It is most fortunate, however, that Shakespeare did not write much law that is accepted by the courts of the United States in these modern days, and that we are now legislating for a hundred millions of people who have been happy for over a century under a Government in this Western Hemisphere, whose people separated from the mother country hundreds of years after that "winter of discontent" "followed by that glorious summer," put into the mouth of King Richard by Shakespeare.

These new people in this Western Hemisphere are trying the experiment of governing themselves, and, as has been well said, a government of the people is nothing but organized self-restraint. No people can succeed with a truly popular form of government unless they can put aside prejudices, both public and private, and can approach with a judicial mind the admitted facts which confront them at each stage of their progress. Every reform is complicated with conditions. Every step for-

ward must be made over the prostrate bodies of prejudice, error, idols, and mistakes, and must keep in view the innocent along with the guilty, and must recognize that honestly acquired property is generally held by the same title as that which is dishonestly acquired. We can not divorce ourselves from what our fathers have been, and yet because they have worshiped idols or made mistakes is no reason why we should worship the same idols or make the same mistakes when we have discovered that they are real idols and actual mistakes. In other words, when we express a reform we can not shut our eyes to either the smallest or the greatest factor in the great labor, business, and commercial interests of the country which contribute to our prosperity. The United States Congress has the power, if it so desires, to make it impossible for any corporation suspected of being a trust to do business, but it could not do so by a law that did not apply equally to all business, little as well as big. This is a government of granted powers and of constitutional limitations. That Constitution goes to the protection of every person in the land, and we can not make laws that will put "big business" in a strait-jacket without applying it to "little business" similarly situated. Whether this bill shall fire dough bullets or 2,500-pound shells from siege guns, this Congress can not be the gunner that would have the deadly missile always pointed at "big business" and never at "little business." In the last analysis the courts will be the gunners and may determine the direction in which the gun shall be pointed. There never was a piece of constructive legislation enacted as to which criticism could not be made from some standpoint. It takes time and patience and even experiment to work out a great problem. Poetry and literature must play their part. They must point out the extreme cases and the excesses here and the injustice there, but when it comes to legislation we can not go every place where the heart would lead, but must follow the interpretation of the courts and keep ever before us the Constitution of our country.

Long ago the American people recognized that its vast resources, the ease with which money can be made, and the greater ease, after being made, that it could be concentrated, had put fabulous wealth in a few individuals and unheard of wealth in a few corporations, and that this power was interlocked in such a way as to make it a danger to the legitimate business of the country. Alongside with this conviction came another—that money making is not the whole purpose of life, and that along with prosperity there can be nurtured the higher ideal that recognizes manhood and its perfections as the highest worldly ideal after all. Twenty years ago the Sherman antitrust law was enacted. Probably every Senator upon this floor could repeat its provisions. All of us recognize it, and it is now so recognized by the country, as a great piece of constructive legislation, but that it lay almost dormant for several years; but when the necessity came, or was realized, its enforcement was all sufficient to meet the greater of the evils to which I have adverted. There is not a Senator on this floor who would repeal a single line or word of it for two reasons—first, because it has been indorsed by the country, and, second, because it has been construed by the courts as a general rule in such a way as to meet the situation which it was intended to cover. Anything which is a monopoly, or anything which in its nature may be used for monopolistic purposes, or anything which is in restraint of trade, is inhibited by the Sherman law, and a violation of that law is made a penal offense. So far as I am concerned, I have long ago satisfied myself why the great combines could not be curbed under that law. In an address made in my own State at least six years ago I am on record as saying that it was impossible to give the people perfect relief and to restore competitive conditions under the banking and currency system which this country then had. So long as it was possible for the money and banking combinations of the country to be manipulated against the small man in business and in favor of the big combinations that power alone would prevent the small man from building up a business that could be in any wise competitive to the larger combination. As long as it was possible to get all of the money that was needed in Wall Street upon New York, New Haven & Hartford stock, for instance, and at the same time it was impossible to get 25 per cent of its value upon well-improved city real estate, there was no use to talk about competitive conditions. It was for this reason that I looked upon the passage of the present banking and currency law as the greatest antitrust measure that it is possible for the Congress to pass. It puts it in the power of the Government to prevent the use of the Government's circulating medium in the interest of any section or any set of men or against any section or any set of men. Whenever the Government undertakes to furnish the people with a circulating medium—that is, with something to represent value and to make trading convenient—it assumes a trust whose responsibility can not be measured.

The people and the States are prevented from improvising any form of circulating medium which is at all practical. No matter how great may be the values upon which a circulating medium may be based, the Government practically said that it alone would attend to that duty, and, as I said before, it can be at once seen that that duty carries with it the high responsibility of seeing to it that it shall not be manipulated for the interest of anyone or of any section. The new currency bill is an approach toward absolute honesty and fairness in dealing with the circulating medium and is a guaranty to business that banks can not make it scarce and can not refuse to do their duty toward the trading public, and that stocks and bonds which may happen to be blessed by a few individuals shall not be the sole basis of credit. When this law shall be thoroughly understood and shall be put into practical operation under an administration dedicated to the cause of all the people and knowing no favorites, I have no doubt that the same genius, enterprise, and activity which have developed the steel, woolen, cotton, tobacco, and other businesses of the country will be applied to the building up of competition to those great combinations which have heretofore dominated those industries. Without absolute fairness in handling the circulating medium of the country the genius and enterprise of the people are stifled. With the new currency law properly enforced and fairly administered, business and trade will be infused with new life and will develop along new lines.

Indeed, there are great thinkers in this country who, I am constrained to believe reason correctly, contend that monopoly can not live under a fair banking and currency law; that if the Government of the United States will fully discharge its duty to the people in respect to the volume and flow of currency, there is no business which will not become almost at once competitive, and that it would then be impossible for any set of men to monopolize any line of trade. If we will look back over the growth of monopoly it will be seen that the genius and enterprise of the American people made the different businesses, which were later combined and now are the component parts of those combinations which we denominate "trusts." There was at one time a man named Carnegie, another one named Gates, another one named Schwab, and so on, in the steel business. These men all began business in a small way. They were quick to seize new methods of production which would give the finished product to the consumer at the lowest cost. In time we had the Carnegie Steel Co., the American Steel Co., the Federal Steel Co., and various other corporations, which were later organized into what is known as the United States Steel Corporation. But the United States Steel Corporation also has immense cash and credits. This is power. It is of itself a power with every bank with which it does business. It is itself a power with every corporation with which it transacts business. Without having a single director in any bank, that corporation can be powerful with the bank simply by the manipulation of its cash deposits. It can be powerful with railroads, except as prevented by the Interstate Commerce Commission, from the fact that it has immense freight to transport. It can be a factor in the coal situation, because it is a large producer of coal. It can have its influence upon the gas companies, because it is a large user of gas. But there are millions of tons of coal now produced and hundreds of thousands of acres of coal land not developed which it would be practically impossible for the steel company to control. There are vast areas of iron ore undeveloped and an ample tonnage that is developed which are not controlled by the Steel Corporation.

There are hundreds of men of genius and ability who would go into the steel business and manufacture steel in all its forms in competition with the Steel Corporation; but everyone knows that to do this would require immense capital, and there is practically no source of capital available to any independent competitor under our former currency and banking system. The power of the men in the Steel Corporation, and the power of the wealth of that corporation, could of itself create sentiment in the restricted available banking centers which would make the securing of capital practically impossible. Take the great tobacco business, which was called the "Tobacco Trust." That business was built up by men like the Dukes, Liggett & Myers, the late Paul Sorg, Reynolds, and others from small beginnings. These men of ability built up by hard work and native genius a large trade in tobacco. They catered to the trade; they manufactured the tobacco in such a way as to meet the demands of that trade; and each of them became wealthy. They were in every way successful. Later the money geniuses saw an opportunity to combine these different businesses and put them all into one corporation. When that was done the combination had immense amounts of cash. They had patented processes. The men connected with the trust were connected with large banking institutions, not alone as directors, but as stockholders, or as depositors and customers

of banks, and this very power could be wielded under our old system of banking and currency. There are plenty of brains left in the country to organize competition. There is little or no trouble in buying tobacco. The same genius which formed the original constituent parts of the Tobacco Trust could go forward and make a success in the tobacco business again, but under the former peculiar banking and currency system of the country credits went by favors, and in nine cases out of ten the geniuses which built the businesses which together formed the Tobacco Trust would be compelled to go to their competitors to get the money with which to compete. It is so in every other business which has been controlled by a trust. The great banking centers of Boston, New York, Chicago, Philadelphia, St. Louis, New Orleans, St. Paul, San Francisco, and Atlanta had banks not connected altogether by interlocking directors, but controlled by the masonry of money—the understanding that there were certain leaders whose approval was necessary to the flotation of any important undertaking. Anything which required a large amount of money and was taken to New York to be financed had to be approved by one of about three groups of corporations. If the proposition were taken to Boston, Boston would call up New York; if it were taken to Chicago, the same influences which controlled in New York controlled there. There was a network of owners and controllers of banks, and in a large measure the banks would not approve of anything which was condemned by this strong body of "captains of industry."

In 1907 a money panic and business depression came suddenly upon the country. Business became so stagnated that at one time during that depression there were over 400,000 empty railroad cars with nothing to do—a condition which was rarely seen before that time and has never been seen since. Men with money in bank were compelled to pay a premium to have their checks cashed in order to get the currency to meet pay rolls. In other words, "big business" and "big money" got frightened at about the same time, and they declared that business should stop, and it did stop. At that time a business man in the city of Wheeling, in my State, with an office building and grounds assessed at a quarter of a million dollars, with his building fully insured, could not get $50,000 in cash upon it. But this all-powerful combination of banks and big business would permit money to be loaned on stocks and bonds. For instance, a favorite stock at that time was the New York, New Haven & Hartford Railroad. Any bank would lend money upon that stock, but not a cent could be gotten upon a solid, unchangeable security of a business block or other piece of real estate. The inherent error of the position of the banks at that time is now known, because the real estate is still a solid security, while some of the railroad stocks have proved to be of little value. Since the panic of 1907 there has been little permanent liquidation. The railroads have sold short-time notes; other large borrowers of money have borrowed upon short-time paper, and the fact is that since 1907 there has been no sure, certain, and permanent revival of business, and the banks and the business world know that that is the true condition. After years of education the people became convinced and the banks had to admit that our banking system was inadequate and that it was used not for the benefit of business and all the people, but largely for a few interests, and these were so consolidated and connected together that when a banker in New York became frightened the effect of his fear spread all the way to California and New Orleans, and other business men depending upon credit were materially injured thereby.

Therefore the most important constructive legislation which this Congress was called upon to pass was the banking and currency bill, in order that the bank reserves of the United States might be mobilized and then put into corps, regiments, and companies, officered by men selected by the Government, in order that this vast power might be used fairly and justly to serve the business of the United States. I repeat, Mr. President, that it is a crime for the Government of the United States to permit its supply of money to be under the control of any power on earth except that of the Government itself. The amount of money in circulation, the freedom of its circulation, and the fidelity with which credits are handled make the greatest power that was ever exerted upon business. It has power to take from a business man the savings of a lifetime. It has the power to build up one community at the expense of another. It has the power to build up one line of industry at the expense of another. It has a power as great as that of taxation; and no people can develop their industries, wealth can not be fairly distributed, unless the whole banking power shall be vested absolutely in and controlled by the Government, and the law be so framed that no private interest on earth can effectively exert itself in so important a matter. I still believe that when in full working order and when perfected, as it will be, the present banking and currency law will prove to be the greatest boon that was ever conferred upon the people. Besides guaranteeing to the honest banker freedom from runs and disaster it will guarantee to the honest business man credit, not when the money power chooses to extend it, but when he needs it and has the security to demand it. This reform will do more for the American people than all the trust legislation which could be enacted. Indeed, it will be a prime trust regulator and a trust buster. It will free the inventive genius and enterprise of the American people. It will take away the greatest power of the trusts to stifle competition, and it will put it in the power of the geniuses of the United States to utilize our raw material and to compete in every line of business.

This Congress could have well stopped with the passage of the banking and currency bill, and could have said to the people: "We have now freed business from unnecessary taxation and have now put the banking and currency and credits under the control of the Government. Go forward and develop the resources of the United States in absolute security that the money power can not manufacture money panics and take away from you the results of your genius and enterprise."

But both parties had some committals upon the subject of trusts. When the platforms of 1912 were promulgated no one dreamed that the present banking and currency law could be passed. Very few thought that such a reform would be possible. The declarations of the party platforms of 1912, therefore, upon the trust question approached that subject directly, little reckoning that there would be an inspiration in the shape of money legislation which would at one swing of the ax cut off the head of so many monsters. But, obedient to party pledges, the Congress took up the subject of trust legislation, and two bills came to this body from the other branch. One of these bills was the Trade Commission bill, a bill which was fully considered by both the House and the Senate committees and which assuredly was amply discussed in this body. The principal fight here was on section 5, which, as it passed this body, simply provided that unfair competition should be unlawful and then placed it in the power of the Trade Commission to determine what is unfair competition. That debate here was a most instructive one. There were those who contended that by prescribing what is unfair competition the courts would be restricted; that is, there would be considered by the courts only those things which had been heretofore condemned in England and in this country as unfair trade or unfair competition. The other view was that while the Sherman law condemned monopoly and restraints of trade, it said nothing about competition, and that unfair competition meant all of those practices by which one competitor sought to destroy another, and after destroying the other and then another, and so on, until he would get the field to himself, he would have a complete restraint of trade of everyone except himself and would have what is known as a monopoly of the business. Time and time again this Senate was challenged to define "unfair competition." More than one Senator undertook to do this, and when he had finished it was not difficult to point out other things or other expedients which had been adopted by the monopolist in order to get rid of a competitor. The general things mentioned at the time were cutting of prices, tying contracts, interlocking directors, and holding companies, and yet anyone can well see that there were dozens and dozens of other practices which would be just as despicable and which would be equally as effective in destroying a competitor.

The spy system, in my judgment, is the most offensive and one which by its very nature is criminal. I would much rather visit a criminal penalty upon one who employed spies in order to get at a competitor's business secrets for the purpose of injuring him than to put criminal penalties upon one who made what is called a "tying contract," or who cuts prices for the same purpose. The last two have long been regarded as legitimate, and while they are severe and now condemned, still they have been used by men of character and standing. The spy system, however, is the resort of the criminal minded. It speaks of crime because it is an underhanded system. It is a dark-lantern method that the high-minded man condemns. I would rather put in the penitentiary a man who controlled large deposits in a bank and who secretly requested a bank, and supplemented that request by a look or a nod that might be construed as a threat to withdraw deposits, to refuse legitimate credit to a competitor than to put in the penitentiary the man who happened to be a director of two or more corporations. I would rather apply a jail penalty to a rich man who built a few miles of railroad for the sole purpose of destroying the little railroad near by than to visit the same penalty upon the owners of a holding company. I mention these, however, in

order to illustrate that unfair competition is like "reasonable doubt," "a reasonable length of time," "with malice aforethought," and many other terms that the law uses. It is easy to distinguish a case that is applicable when the facts are presented, but it is practically impossible to give a definition which would meet every case that could arise. A juror has no trouble in determining when there is a reasonable doubt, but about as near as the courts have ever come to defining it is to say that it is a doubt for which you could give a reason, and then, whether or not it is a good reason must be left to the conscience of the individual juror. "A reasonable time" is an expression that is most common. Sometimes six months is a reasonable time; in other cases three months; and in an emergency probably two days or a few hours would be a reasonable time; and yet throughout the affairs of men great transactions are determined without any other guide to the courts except the requirement of a "reasonable time," and the world has lived under that law without great inconvenience. In my State no one can be hanged for murder unless it is committed with "malice aforethought." No one can give a definition of that term that would cover every phase of the question, and yet men are hung, they are sent to the penitentiary for life, and the ends of justice are entirely met without any other criterion for so severe a penalty than is contained in the expression "with malice aforethought" or "with premeditation." After a full discussion in the Senate, which discussion was learned and able, the Senate determined on the passage of the bill and on consideration of the conference report that the general expression "unfair competition" or "unfair methods of competition," which mean the same, was amply sufficient, and it voted by a large majority to pass the Trade Commission bill with section 5 in it, containing no other guide than this general term. Now, under it would be included some of the following:

First. The subject of what is now section 2 in the pending bill, to wit, the cutting of prices.

Second. What is now section 3—tying contracts.

Third. What is now section 8—interlocking directors.

Fourth. What is now section 7—holding companies.

All of these practices were condemned in the bill as it originally passed the House, and were made penal offenses and penalties were prescribed. When the bill left the Senate and went to conference all of these penalties were taken out except that for "tying contracts." A substitute was drafted and introduced in the Senate by the Senator from Montana which was section 2 of the bill as it passed the Senate. In other words, the Senate and House have adopted a theory of handling those practices in competition which were not reached by the Sherman law; they condemned four of them specifically and all of them generally by section 5 of the Trade Commission bill, and had put a penalty upon but one, to wit, tying contracts.

Now, I submit, Mr. President, that upon any theory this is not scientific legislation, it is not fair legislation, and, with all respect, it is cowardly legislation. If tying contracts should be penalized in the first instance, so should interlocking directors, so should the financing of holding companies, so should price cutting. But when we have done that we are not half through the gamut of expedients adopted by the builder of trusts. Who can justify himself in making a tying contract criminal and not make criminal the act of employing spies to go into the business of a competitor and get his confidence and then his secrets; find out his customers, his sources of supply, and then use this information for the purpose of cutting his throat? This alone smacks more of criminality than does any of the others, and yet no one has attempted to make the employment of spies a penal offense.

I want to say in passing that it is a part of the history of this legislation that when this Congress approached the subject of trusts there were two theories. One was to create a trades commission to which should be referred all of those embryonic stages of restraint of trade and monopoly which had not developed far enough to come within the provision of the Sherman antitrust law. Another was to define them item by item, so that the courts in administering them could, from the definition in the statute, determine whether or not the facts brought the case within the provisions of the law. So far as this Senate is concerned that battle was fought out in the discussion of the Trades Commission bill, and when that bill was passed it determined the general provision that the Trades Commission, subject to review by the courts, should determine what was fair and what was unfair competition. The mind of man can not conceive of any monopoly or any contract in restraint of trade or any conspiracy to restrain trade which the Sherman law does not cover. Whatever may be done, the Sherman antitrust law should remain in full force and vigor, and no law which should now be passed must be construed as modifying or repealing that law. That is easily said, but not so easily done; and however strong may be the reasons for maintaining the Sherman law in its full force and vigor, because the courts have construed and the people have understood it, still it is not an easy matter to pass a law which deals with the subject without in some way destroying some of the effectiveness of the Sherman law. It is hard for the Congress to legislate upon a subject and then say that it does not intend to do anything of the kind. It is idle to proscribe a thing already proscribed and then put in a proviso that the second law shall not affect the first. It was on account of these considerations and the passage of the Trades Commission bill that both the Senate and the conferees found great difficulty in shaping the Clayton bill so as to make all of its provisions fit into existing statutes.

To go over an old subject very briefly, I want to call the attention of the Senate to the fact that the Sherman law, in section 1, deals with the following subjects:

1. Every contract in restraint of trade.
2. Every combination in the form of trust or otherwise in restraint of trade.
3. Every conspiracy in restraint of trade.

In section 2 it deals with the following:

1. Monopolization of any part of interstate commerce.
2. Attempts to monopolize it.
3. Combinations to monopolize it.
4. Conspiracies to monopolize it.

The third section makes illegal every such contract, combination, or conspiracy.

If we adhere to the expressed will of the people and the evident purpose of Congress to maintain that law in its full integrity, so that the work of construing, applying, and enforcing the law, already done, shall not be questioned in any future litigation, it seems to me too plain for argument that we should be cautious in our definitions when we come to consider those practices which may come under the head of "unfair competition."

The House recognized this zone of danger in preparing sections 2, 4, 8, and 9 of the House bill.

Its definitions of illegal acts kept in view the broad scope of the Sherman law, as I shall show later on.

But, to return to my argument, there is another instance of unfair methods of competition which smacks much more of criminality and moral turpitude than either the making of tying contracts or the cutting of prices. There are cases in which a competitor has falsely labeled goods, adulterated them, and sold them as goods of the competitor. This practice is not only immoral, but it is so plainly a species of fraud that in an action at law there should be little doubt of the liability of the person guilty of it to the one who should be injured thereby. If done in interstate commerce, it would clearly come under the head of unfair competition, condemned by section 5 of the Trades Commission bill. It is very strange that so much eloquence has been expended upon the three or four pet theories dwelt upon by the opponents of this bill, and yet no one has presented an amendment covering the subject of false labeling and adulteration. One is compelled to marvel at the inconsistent demand that price cutting should be a penal offense and false labeling and adulteration should be left to the judgment of the Trades Commission. Another practice well known to business and to business men is the one of erecting a competitive business by the side of a competitor, and not by price cutting or tying contracts, but by the power of money and its use, in methods of delivery, in false advertising, and in dozens of ways that genius can invent and that wealth can execute, undermine and tear down the business of a competitor, not for the purpose of legitimate competition, but for the sole purpose of destroying the competitor. Another favorite way of destroying a competitor in transportation is to build a useless short line of railroad between two given points, not because the public needs two lines, not because it is the general plan of the transportation company to have another line, but for the sole purpose of destroying one of the lines which may become a part of a greater system of transportation. No one has asked to make that practice a criminal offense by this bill. Another unfair practice is that of deliberately closing the field of credit to a competitor. This need not be done by interlocking directors—not even by interlocking stockholders—but the large concerns can, by withholding or threatening to withhold patronage and deposits, prevent a bank or a trust company, at the crucial time, from extending legitimate and proper credit to a competitor.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. With pleasure.

Mr. REED. If the last statement just made by the Senator be true, then is not the root and source of the evil the great power of these great corporations?

Mr. CHILTON. It is not the root of it, but one of the great sources undoubtedly.

Mr. REED. If it is the power of the great combinations to control the credit market so that another competitor can not exist, then is it not necessarily true that the source of the particular evil we are discussing lies in the great combinations?

Mr. CHILTON. Very largely that is true.

Mr. REED. Now, as to a concern which does that sort of business, which controls the credit market and crushes a competitor by any of the methods he has designated—local price cutting, spies, adulteration of goods, substitution of goods—does the Senator think any buccaneers engaged in that line of piracy ought not to go to jail the same as an individual who steals a horse or purloins a loaf of bread?

Mr. CHILTON. Mr. President, the Senator and I have never disagreed about that. The only thing is that I think I am logical and for *one* time in his life I think the Senator is illogical.

Mr. REED. Does the Senator think——

Mr. CHILTON. Pardon me, let me finish this thought, and then I will yield.

Mr. President, somebody has to decide everything. The Senate in its wisdom decided that the Trade Commission should be the policy of the lawmakers. That has been settled. It was settled after one of the greatest debates that has ever been heard on this floor. I may say that because I did not take any part in it, and the distinguished Senator who is questioning me did. He took a most conspicuous part in it; he contributed to the sources of information, the knowledge, and the wisdom of that occasion. I was told by a man who looks into the discussions of Congress that that was one of the most enlightening and most able debates that it had ever been his pleasure to read, and he always did read the debates of the Senate. The Senate then adopted a theory. We can not take two. I say to the Senator that he can not sit here and in 12 months write down the different things that will come or that ought to come under the jurisdiction of the Trade Commission. In my judgment it is not logical to make one of them a penitentiary offense and not make all of them. The only logical thing for the Senator to do is to put in section 5 of the Trade Commission bill the provision that anyone who shall engage in unfair competition shall be guilty of a penal offense and shall be confined in the penitentiary. Then you take in everybody; you ought not confine that penal clause to one or two things, because just as soon as the trusts find out that you have condemned the few they will take some of the other courses to break up a competitor and will keep clear of the penal offenses. In other words, you simply confine the activities thereafter of the trust to fields in which they can get along very well. Now I yield to the Senator.

Mr. REED. The Senator has gone so far from the remark he has just made that the remark I was going to make in reply would be practically without point now. But does the Senator think that if there are certain well-known acts which are vicious and bad and criminal in their nature we ought not to prohibit them and penalize them because there are certain other acts equally bad that we may not be prepared to legislate upon? Is that any reason? Should we sacrifice the passage and enforcement of that just law to stop an evil practice because we can not at the same time pass a law affecting all the evils?

Mr. CHILTON. The Senator decides the case in his own favor in his question by asking if we should not pass a just law. I am trying to show him that in a given state of facts it would not be a just law.

Mr. REED. Will the Senator pardon me there, because we get right to the point? Is it just to pass a law condemning a practice that is in its nature criminal? That is just, of course.

Mr. CHILTON. It is just if you can define it so as to reach it.

Mr. REED. And it is not unjust to pass such a law simply because you do not at the same time pass a law condemning some other practice. Is not that true?

Mr. CHILTON. It is true, with some limitations. If you are dealing with a subject, you should deal with it justly and comprehensively.

Mr. REED. Has the horse thief any right to insist that a law should not be passed against him unless there is at the same time one passed against the burglar? Has either one of these criminals any right to insist upon immunity because somebody else is not punished at the same time?

Mr. CHILTON. I think the Senator could well set it down that I would answer that in the negative; yet, in doing so, I do not admit his contention to be correct.

I could go on, Mr. President, and mention dozens, even scores, of things which have come within the condemnation of section 5 of the Trade Commission bill; many of them worse, many of them smacking more of criminality and underhandedness than tying contracts and meaner than interlocking directorates or any practices under them. My contention is that if one of them be criminal, the others must be; and that a law making only one of them criminal is not fair.

It is beyond the power of any man to name the unfair, inequitable, immoral, and malicious practices which the minds of men can invent and the use of money can execute, all willfully meant and intended to break up and ruin a competitor. The practice is modified in each instance by local conditions, by the situation of the competitor, his surroundings, and the network of conditions with which his business life may have surrounded him. It is sufficient to say that wherever there is a business there is always an opportunity whereby a stronger competitor can willfully and maliciously injure or destroy the weaker. The field for such work, to destroy a competitor, is as varied and as far-reaching as is the human intellect and the power of money. As we can not write down everything which would constitute fraud, that is no reason why fraud generally should not be condemned. Any reasonable man can recognize a fraudulent transaction when it shall be presented to him, so any fair-minded man can recognize unfair methods of competition when the facts shall be known, but no reason has ever yet been given, nor can one be given, why any one of these practices should be dealt with in a different way from any other. They are all species of underhanded, fraudulent, or malicious purposes. Unfortunately the Congress can not deal with unfair, fraudulent, or malicious purpose unless it be to regulate interstate commerce. Our powers here are limited to the regulation of interstate commerce, and the exact boundaries of our power have not been defined. Interstate and intrastate commerce go along hand in hand. Almost every business man engages in some interstate commerce, no matter how small the business may be. In his banking, purchasing, or selling some transactions will necessarily cross State lines, and from some standpoint the transaction will be interstate. We have to recognize that as to every corporation we have to deal first with the State. This Government is composed of 48 sovereign States, each having primarily the right to deal with its own corporations. Each State creates corporations. It gives them certain powers and exercises the jurisdiction of sovereignty over them. Subject to constitutional limitations which in most of the States mean nothing, because the State usually reserves the right even to repeal the law under which they are created, the State has full power over them. The laws of practically every State not only prescribe the powers which the corporation may exercise, but it regulates the number and power of the directors or controlling body, its meetings, how the stock shall be voted, and usually these laws provide for the qualification and the term of the directors and officers. In dealing with the subject of interlocking directors the question always arises, Where does the power of the State end, and where does the power of the Federal Government, whose right is limited to the regulation of interstate commerce, begin and end? If the United States Government has full power over corporations because they engage in interstate commerce, then the State has no power over such corporations. It is impossible that it can be true that there are two sovereignties in this country both of which can do as they please with a corporation engaged in interstate commerce. A corporation formed by a State makes its contracts under the laws of that State. It may mortgage its property under those laws. Its title to its property in that State is held under those laws, and the creditors in that State are entitled to the protection of those laws. Therefore in dealing with directors and all kindred matters concerning the management of the corporation some line had to be drawn defining the point at which the Federal Government could justly and fairly regulate a corporation created and controlled by a sovereign State.

Our power over it begins and ends with the clause of the Constitution giving us power to regulate interstate commerce. We can exclude certain kinds of organizations from interstate commerce. We could say that corporations organized in a particular way should not engage in interstate commerce. Our power to regulate is supreme and unrestricted over the commerce, but we have no power over the corporations except and unless we correctly rest the power upon the grant to regulate that commerce and see to it that the control exercised over the corporation is truly a regulation of such commerce.

In dealing with the subject I can not forget the enterprising, hustling thousands of workers and little-business men who organize for profit the orchard, oil, gas, coal, lumber, cotton, wool, mercantile, and trading companies for legitimate purposes,

and who have no thought of monopoly, no purpose to injure anyone else. There are hundreds of thousands of these who may be interested in small banks and other enterprises in their localities, and they, of necessity, engage in interstate commerce. They build the houses, explore for oil and gas, open coal mines, run sawmills, produce apples, peaches, and grapes, start the small enterprises, and develop the country. Among these there are interlocking directors, maybe inoffensive holding companies.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. To be candid, I was right in the middle of a thing which I thought was pretty good, and I wanted to finish it.

Mr. REED. Mr. President, I wanted to install my poor contribution right in the middle of that cluster of jewels, if I might be permitted, but I will of course wait.

Mr. CHILTON. I can not forget what the inventor has done for man's convenience and comfort. In machinery, electricity, and chemistry the inventor has made nearly all things possible. The patent laws were intended to secure to him the benefits of his work and genius. By common consent of civilization he is entitled to the rewards which come to the originator. While condemning the tying contract, I do not want to make less valuable the invention and thereby take away the incentive to the highest achievement in original thought and work.

The theory of the House and Senate has been to preserve the Sherman law and not to injure any legitimate business, and to so frame the law that criminal business only would be impossible. We should be severe as to a known evil, radical with monopoly, but conservative with those things which must of necessity reach the small-business man. It is unwise and unfair to put every business man in fear. We should proceed upon the theory that business is lawful and that the great body of the people are honest. We should restrain dishonest methods without a blanket condemnation which the small-business man can not be sure fits his situation or not.

Now I will gladly yield to the Senator from Missouri.

Mr. REED. I understood the tendency of the Senator's remarks at the moment I rose to be that interlocking directorates were something which should not be condemned.

Mr. CHILTON. Oh, not at all. Do not get that into your head, because that would be erroneous, as the Senator will see later on.

Mr. REED. I understood the Senator to say that there were a great many small concerns which had such directors.

Mr. CHILTON. If the Senator from Missouri wants me to anticipate myself, I will say to him that when you get to ordinary business matters which people must not do, you must be careful to define and say that only the fellow who does them with criminal intent or with a purpose that is against good policy shall be hurt. That is my theory. I do not want a net here that will catch everybody. The law should set its net only for the man who commits these acts with criminal intent and whose purpose is to do something which under the Constitution of the United States we have a right to forbid.

Mr. REED. But the Senator applies that to interlocking directors.

Mr. CHILTON. For that very reason, Mr. President, I think interlocking directors ought to be controlled under the Trade Commission bill.

Mr. REED. I want to call the Senator's attention to this plank in the last Democratic platform——

Mr. CHILTON. Unless the Senator wants to put it into the RECORD, I would say to him that I know it by heart.

Mr. REED. Well, I did want to put it into the RECORD.

Mr. CHILTON. I do not object to the Senator reading it; it is all right.

Mr. REED. It is as follows:

We favor the declaration by law—

Not by a trade commission or by any other kind of a commission, but by law—

of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others—

Not the regulation, but—

the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price—

I find no qualification of that language.

Mr. CHILTON. I want to call the attention of the Senator to the fact that his guide there for the time being does not mention "tying contracts." He is now contending that this conference report should be sent back in order to have a criminal penalty put upon tying contracts.

Mr. REED. I think it does. In the same plank of the Democratic platform——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. I yield with pleasure to the Senator.

Mr. REED. This plank continues:

And control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

I think that covers a tying contract, which is the very basis and soul of monopoly, and which, notwithstanding the ingenious argument of the Senator from Massachusetts [Mr. WEEKS] this morning in defense of the Shoe Machinery Trust, is the means employed by that trust by which it has built up its complete control over the shoe-machinery business of the country.

Mr. CHILTON. No; Mr. President, that plank of the Democratic platform does not cover tying contracts. Tying contracts were too well known to the men who wrote that platform for us to assume that they would not know the difference between a holding company and a tying contract. What is referred to there is the case of one corporation holding such control as to constitute monopoly, or else to the holding company. Of course, tying contracts were known, and they were not put into the platform, because possibly its authors did not think of doing so. We have denounced holding companies; we have denounced price-cutting; we have denounced interlocking directorates in this bill. It proposes to provide against that by law, and in what I claim to be the most effective way of securing relief. The Democratic Party is committed and probably the Republican Party, and, for aught I know, the Progressive Party; and probably everybody in this country feels that any party which seeks to get the confidence of the people is committed to the proposition of regulating these great combinations.

After all, the question is, How shall we do it? Shall we do it justly or unjustly? Shall we do it in a half-way manner, or shall we do it completely? Shall we do it comprehensively and scientifically, or shall we go at it bunglingly? My proposition is that we should go carefully in those directions which take us to unknown fields. When we know that our neighbors are involved, that the little banker, the little grocer and trader, the small business men in different communities are engaged in this kind of business, I am not afraid to say that I want to step lightly and be sure that we do not accomplish more harm than good.

I do not want anybody in West Virginia to feel that there is a possibility that the first knowledge he will have that he has violated the law will be a visit from the marshal to serve upon him an indictment found by a Federal grand jury. I, just as earnestly as the Senator or anyone else—and I have worked just as earnestly as anyone to frame a bill to that effect—want a bill that will describe the thing the trust does to injure the little man and make that act an offense and stop it. I want everybody to understand that I am not conceding that we are stepping easy with the trusts. We have provided a punishment that is designed to stop their evil practices and which will stop them. It is a voluntary assumption that any trusts favor this bill.

Mr. REED. What punishment is there provided in this bill?

Mr. CHILTON. I will show the Senator a little later on. I can not argue everything at once.

In regard to holding companies, the House adopted the following criterion as the one by which we should ascertain whether the corporation should come within the ban of the law; that is to say, holding companies should be inhibited "where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, is to eliminate or substantially lessen competition." In other words, the House dealt with the subject of competition, whereas the Sherman antitrust law dealt with monopolies and restraint of trade; and, as is admitted on this floor and conceded even by those who oppose this bill, there is not a case of monopoly or restraint of trade which is not completely covered by the Sherman antitrust law; and yet Senators every time we approach a subject or call to mind a particular practice want that ground covered again. We have everything covered now. The House criterion was that the condemned act must be such as "to eliminate and substantially lessen competition."

Why was that done? There was a reason for it. The House recognized, as every man who studies the question must recognize, that you can not interdict all holding companies in interstate commerce; you can not interdict all interlocking directors in interstate commerce. There would come here 90 per cent of the people to condemn us for doing anything of that kind. We would break up and destroy the little business of the country.

What we wanted to do was to get at the criminal and interdict the act when it was done for criminal purposes.

Mr. REED. Mr. President, if the Senator will pardon me, if that is what he wanted to reach and did reach, in the name of goodness why did he strike out the criminal penalty for the criminal that he was seeking to reach?

Mr. CHILTON. I did not strike it out. The Senator knows that I am not speaking for the Senate; I am not speaking for all of the conferees; I am not speaking for the House; and what I did in the Senate will be disclosed by my vote. I think, except on the Trade Commission bill, I voted as the Senator did. I have found, however, in this body, and in many others, that I can not always get what I want; and I am not disposed to break up the game because I do not win every heat. I am perfectly willing to take my medicine in this body, as I have had to take it everywhere else in life. When the Senate decided that it wanted a Trade Commission bill, I supposed they wanted to go down the gamut upon that theory; and when they decided that they wanted certain practices left outside of the criminal provisions, then my own sense of justice and my own idea of logic and right teach me that there is no good reason, with all respect to those who think otherwise, in providing that one kind of practice, and the least objectionable one, shall be a criminal offense, and leaving the greater ones to be regulated through a commission.

Mr. REED. Mr. President, may I ask the Senator a question at that point?

The PRESIDING OFFICER (Mr. WEST in the chair). Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. With pleasure.

Mr. REED. Is it because the Senator entertained that idea that the one criminal penalty that was put in the bill by the Senate with reference to trusts is not now found in the bill?

Mr. CHILTON. I will come to that in a moment and tell the Senator about it.

The Senate, however, Mr. President, adopted as its criterion the following, "where the effect may be to lessen competition." In other words, the Senate struck out "eliminate" and "substantially." My judgment is that there is very little difference between the two. To lessen is to substantially lessen. Competition is everywhere. A pleasant word, prompt and quick service are both methods of competition. If a competitor takes one customer away, it is lessening, and possibly "substantially" lessening competition; because when one customer shall be secured by one of the competitors to that extent there may be no competition. But when House section 8, which is Senate section 6, came to conference the House conferees insisted that the words "eliminate" or "substantially lessen competition" should be the standard. The Senate conferees insisted that the language of the Senate should be adopted, to wit, "where the effect may be to lessen competition." As always happens with men of ordinary sense, with men who want to carry out as best they can the instructions of their superiors, the conferees had to find some common ground upon which their minds could meet, and the result was a compromise, which is section 7 in the bill reported by the conferees. That compromise was the adoption of the words "may be" instead of the word "is," so that instead of reading "where the effect is" the bill now reads, "where the effect may be"; that is, where it is possible for the effect to be, which was a decided victory for the Senate. We struck out "eliminate," which was another victory for the Senate. We left in the word "substantially," which was a victory for the House; but the House conferees insisted that that would change the section and would not accomplish the purpose intended by it; that a corporation might acquire the stock of another corporation, and there would be no lessening of competition, but the tendency might be to create monopoly or to restrain trade or commerce, and therefore there was added to the definition the following: "Or to restrain such commerce in any section or community or tend to create a monopoly of any line of commerce."

Now, Mr. President, does anyone want to have any better law than that? There is a clear-cut rule fixed that will save the little man, and yet it will reach the people who are trying to break up their competitors. In other words, as regards holding companies, the bill as reported makes the holding of stock in another company unlawful "where the effect may be to substantially lessen competition or to restrain commerce or tend to create a monopoly." In my judgment, the language of the conferees is much better than the language adopted by either House; the definition is clearer, and gets at the evil intended to be corrected; and, to be perfectly candid with the Senate, I like it because it saves the small business man, who does not want to restrain trade and would not, if he could, create a monopoly.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Minnesota?

Mr. CHILTON. With pleasure.

Mr. CLAPP. Why not add "and could not, if he would"?

Mr. CHILTON. I will accept the suggestion, and will add "would not, if he could." As to that man who could not if he would and who would not if he could, I am here to say I would not injure a hair on his head by any voluntary act of mine.

Mr. CLAPP. If he would not if he could and could not if he would, I should like the Senator to explain how this legislation in the form it passed either the House or the Senate could affect him?

Mr. CHILTON. It would not; and yet, Mr. President, I will say now that the Senator from Minnesota is so situated, he has been so educated, and the Lord has put such a heart in him that he would not if he could and he could not if he would commit murder, and yet I would not repeal the law of his State prohibiting murder, because there are other people who would commit that crime.

Mr. CLAPP. If I could not if I would and would not if I could, a law against murder would impose no burden or harm upon me. Just so with little business.

Mr. CHILTON. So far as I am concerned, the law of murder against the Senator from Minnesota hereby stands repealed; and if there were no one in the State where I live except men like the Senator, I would never attempt to enact such a law. Unfortunately, however, it is hard to find that kind of a community, and I do not believe that the Senator would claim that even Minnesota comes within that description.

In that same section there was a proviso put in by the Senate, as follows:

> Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws nor to exempt any person from the penal provisions thereof.

That was put in, Mr. President, out of an abundance of caution. We did not want anything we said here to be construed in any place as repealing, altering, amending, or changing the Sherman antitrust law.

This was not entirely new matter inserted by the Senate, but was put at the end of the section in lieu of the following clause in the House bill:

> Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this paragraph shall make stockholding relations between corporations legal when such relations constitute violations of the antitrust laws.

The purpose of the Senate was not to exempt any person from the penal provisions of the antitrust laws. The conferees adopted the Senate provision, but added "or the civil remedies therein provided," so as to make clear that nothing in the section should exempt any person from either the penal provisions of the antitrust laws heretofore passed or from the civil remedies therein provided.

Mr. President, I feel confident that that section as it came from the conferees was decidedly improved from any standpoint. I know that the junior Senator from Montana, after the bill went to conference, was very solicitous that this addition to the section to save the civil remedies should be made, and he called the attention of the conferees to the subject. In this, as in all matters connected with this legislation, he has been a most useful member of the Judiciary Committee.

Section 9 of the House bill was stricken out by the Senate, but the House insisted on it, but not in the original form. Instead of section 9 of the House bill, the Senate adopted section 10 of the Senate bill, which applied to common carriers; but instead of undertaking to regulate the matter of interlocking directors through the personnel of the board, it dealt directly with the evil, which was the objectionable transaction. It made it a criminal offense for certain officers of a common carrier to deal in securities or supplies, or make contracts with another corporation where there were interlocking directors and officers, unless the transaction was by competitive bidding under rules and regulations prescribed by the Interstate Commerce Commission. That is dealing with an offense which can easily be described in an indictment and which ought to be prevented. If it had been the law, it would have prevented many of the transactions which have shocked the country. It does not put legitimate business in fear, and yet it makes it impossible for officers of a common carrier to traffic and deal with those who conduct both sides of the transaction to the profit of individuals who may conduct the negotiations. If a common carrier

has bonds to sell, it can not sell them to a bank which has as its director or manager or purchasing officer anyone who at the same time occupies a trust capacity or is interested in another corporation with which the dealings may be had, unless the transaction is open and fair, and the common carrier, after competition, gets the best prices for the bonds, and in case the transaction is a purchase by the common carrier, unless it gets the lowest price for the articles purchased. It makes an exception to the amount of $50,000 in any one year, to cover those cases of emergency which would occur to anyone giving the subject any thought.

The management of common carriers has become a matter of acute public concern, and so has the financing of its securities. A scandal affecting the securities of a common carrier may be far-reaching. It has affected prices and has at times caused Europe to become uneasy over American securities as a whole. I want to see American securities standardized, so that this annual scare of European dumping of our securities will cease. This can be accomplished by enforcing honest, open methods in issuing and selling the securities and in purchasing and constructing by the common carriers. No honest management has anything to fear from this section, but it has a severe penalty that will deter the dishonest manipulator. Much criticism has been indulged over section 5 as reported by the conference committee. This was section 6 as passed by the House, which made the judgment in favor of the United States in a suit in equity conclusive in favor of any other party in any action or proceeding brought under the antitrust laws, but it was confined to suits hereafter brought.

I want to pause here a minute to say this to the Senate: I hope when Senators vote upon this measure they will recall the history of each section, see what the House passed, note what was reported to the Senate, observe what was done by the Senate, and thereby realize the restricted field which was left to the conferees as a basis for giving and taking so as to get together. If that is done they will see that the conferee's bill is nearer to the Senate bill and the Senate theory than it is to the House bill; that the Senate has gotten most of the things for which it contended. If this bill shall be passed, and it and the Trade Commission bill shall go along together, it will be seen that it is the theory of the Senate which is the law of the land and not the theory of the House. Section 5 of the Trade Commission bill was the guiding star of this legislation, and the conferees who had the bill in charge tried to mold and fit it to make it a logical whole, so that the country would have a piece of logical legislation upon the statute books, and not one that was top-heavy.

Section 6 as passed by the House made the judgment in favor of the United States conclusive, but it applied to suits "hereafter brought."

In other words, the House provision is subject to all the criticisms which have been poured down upon the devoted heads of the Senate conferees. The House provision would not have applied to any suits heretofore brought or concluded or to any suits now pending. The suitor who wanted to use the judgment in any antitrust case in favor of the Government would have had to wait for the judgment to be entered in suits in equity brought after the passage of the bill under the House provision. The Senate committee reported section 4 of the Senate bill, which made judgments in suits in equity or in criminal prosecution prima facie evidence, and provided that it should apply to final judgments heretofore or hereafter rendered. There was a radical difference between the House provision and that of the Senate. The House provision applied entirely prospectively; that is, to suits hereafter brought. The Senate provision made it apply to judgments heretofore or hereafter rendered. The House provision made it apply only to suits in equity. The Senate provision made it apply to both suits in equity and criminal prosecutions, and the House provision made the judgment conclusive, while the Senate provision made it prima facie evidence. I never heard any demand from the people for either provision. The only demand which I have ever heard from litigants and attorneys representing litigants was that the evidence taken by the Government in a prosecution against a trust might be available for a private suitor on the ground that the Government is able to get evidence which the private suitor could not. The demand was that the evidence be admissible against the same defendant where it was otherwise competent. Both section 6 of the House bill and section 4 of the Senate bill went further in some respects and not so far in others, as was my understanding of the demands of the situation. It is my judgment that there would come more relief to those who would be injured by the violation of the antitrust laws if the provision had been that any evidence taken in any trust suit by the United States should be available against the same defendant when certified by the clerk of the court. This would give a litigant a right to the evidence regardless of the outcome of the case. It would give no more effect to that evidence than would be given to it if it had been taken in open court in the second litigation, but it would enable suitors to get evidence which otherwise they could not procure.

The conferees had to deal with these two wide-apart provisions. The House conferees insisted upon section 4 and we insisted upon the Senate provision. The matter was debated and considered, and the only thing that was possible was section 5 as it now appears. Section 5 applies both to a criminal prosecution and to a suit in equity. That far it was a decided victory for the Senate. It made it apply to judgments hereafter rendered and not to suits hereafter brought, likewise a Senate victory. It retained the prima facie provision as provided in the Senate section, another Senate victory. However, it was recognized that heretofore consent judgments and decrees had been entered, and it seemed to the conferees that where defendants had gone in before the passage of this bill and had consented to a decree as demanded by the Government, it was hardly fair to give that decree the force and effect which should be given to one which had been tried out; and inasmuch as it was the purpose of the bill to be practical, and knowing that suits were now pending, it was thought nothing but fair that where the defense surrendered and consented that the Government should take a decree without any evidence the section as adopted by the conferees would be fair to all parties, but it was further recognized that there are suits now pending in which evidence has been taken, and if these defendants should come forward now and consent to judgments in favor of the Government they would be in a worse position than those who should consent where evidence has not been taken. Therefore it was provided as a compromise that the section should not apply to consent decrees where no testimony had been taken, nor should it apply to consent decrees where evidence had been taken if the defense now surrendered and took no further testimony.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. I do.

Mr. REED. Of course, the entire virtue of this section lies in the ability of the Government or the private citizen in subsequent litigation to use as evidence the decree which has been rendered. It has no other effect than that. Of course, the private litigant having a suit does not make out a case by merely showing the decree. He must show that he has been injured. The Government in any subsequent litigation does not make out a case in its second suit by showing the decree in the first. It can only use that as one fact. It must, however, proceed to show that the corporation or combination is still violating the law.

I want to ask the Senator this question: If a private citizen has been injured by a combination, ought he not to be permitted to use in evidence against that combination every admission it has ever made?

Mr. CHILTON. I doubt very much whether that would be true in everything. My idea is this: My whole theory—and, as the Senator knows, the one that I contended for all the time—is that neither the House bill nor the Senate bill gave the people what they wanted. What the people wanted was the evidence. They did not ask us to make it prima facie evidence or to make it a finality. They will take care of that. Hardly anybody sues a trust that has not a good case, and if he makes out a good case the courts and the juries will so decide.

What the people wanted was to have the benefit of the investigation which the Government had made and the evidence which was on file in the case. They wanted us to let the evidence there be certified and used against the same defendant. That is all they asked us to do, and with that evidence they can take care of the litigation.

Mr. REED. But does the Senator think that any combination ever stood up in court and pleaded guilty when it was not guilty?

Mr. CHILTON. I think not.

Mr. REED. Now, if it was guilty, and if it admitted its guilt, and if a private party had a suit against that concern for damages, why should not he be permitted to show that this institution had admitted its guilt? What harm can be done, what rule of law outraged, what principle of equity infringed upon?

Mr. CHILTON. I do not know of any, but——

Mr. REED. Then why not leave in the word "heretofore"?

Mr. CHILTON. Simply because, as I said before, I am not the Senate of the United States, nor is the Senator from Missouri the Senate of the United States.

Mr. REED. No; but the Senate put in the word "heretofore."

Mr. CHILTON. That is right; and the Senate has passed a lot of things that the House has not agreed to. The Senate has passed many bills which have not become the law of the land. I am telling you what occurred in the conference. We have brought you here the very best that is possible. I am giving the Senate the reasons why it was done. I am trying to show the Senate that it is an improvement upon existing law. It is not for me to lecture the House, nor is it for me to lecture anybody on the conference committee. I tried my best to get what the Senate directed me to contend for. My colleagues from the Senate on that committee did the same thing; but we thought the object of a conference was to agree on the very best thing possible and to come the very nearest we could to what the Senate desired the law to be. We have reported it.

It is useless to ask me my views. I am giving the conferees' views and trying to show the Senate that this is better than the present condition; that this is an improvement; that this will help. Even if the Senator be right in all that he contends for, he will find out, as I will find out, if we stay in this body, that there are many things which we would like to have that we can not get; and there will be many a time when we will vote for a bill that never will be written on the statute books.

Mr. REED. I understand that.

Mr. CHILTON. I can not tell you why. I can only say to you that we could not get all that the Senate wanted. We tried to get the bill as it was passed by the Senate, and we could not do it. There was another side to the proposition.

Mr. REED. What argument can be advanced——

Mr. CHILTON. I do not want to advance any argument against it, and there is no need to argue for it. I voted for it. I voted for the bill as it passed. I voted as the Senator did on many things, and I voted for the bill as it left the Senate. I tried to keep that section in as it was passed by the Senate, and I could not do it. We have to take this or defeat the bill. We can not get anything else out of it. It is a good section, though, Mr. President, and confers a great deal of benefit; and, after all, the contention is that we should not deal with things in a retrospective way. If we can get the future right, we can well let the past take care of itself. That was the theory that was adopted, and we could not get any more. I have an abiding faith that the section as now reported is just and fair.

Mr. CLAPP. Mr. President, will the Senator pardon an interruption?

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Minnesota?

Mr. CHILTON. Certainly.

Mr. CLAPP. I should like to have some suggestion of the authority upon which the Senator says we will get this or get nothing.

Mr. CHILTON. Oh, well, I withdraw that statement. I was just giving my opinion.

Mr. CLAPP. I ask because in the bill as it passed the House there were several very valuable features which went out in conference; and we can hardly assume that the House would defeat the bill if it were sent back for that reason.

Mr. CHILTON. Oh, yes; because the situation was entirely changed. The Senator knows that after the House and the Senate passed this bill the President signed a bill establishing an entirely different theory on these things and putting them into the hands of the Trade Commission. The House could very properly, in my judgment, change its position, and could not be logical and consistent unless it did change the theory upon which it legislated in the first place. My view all the time has been that after the Trade Commission bill was passed we could not be logical, we could not be fair with ourselves and the other House, unless we changed our theory of handling these matters.

Mr. CLAPP. Mr. President, that is true as to those things that would then conflict with the Trade Commission bill. The House, however, put in this bill a provision relating to tying contracts. The House put in a provision relating to underselling. The conferees have kept in those things, but they have changed the terms of them. If they were in conflict with the Trade Commission bill, they had no business in this report at all.

Mr. CHILTON. I am not so sure that they should be in; and it seems to me that everybody who will study the question will say that this body can not justify itself in selecting one of them and making it a criminal offense and leaving probably hundreds of other things to be dealt with by the Trade Commission. That is what I mean.

Mr. CLAPP. Oh, Mr. President, I, for one, can not let that statement go unchallenged. The fact that you can not interdict one thing is no reason why you should not interdict another, if it ought to be interdicted. There is no getting away from that.

Mr. CHILTON. Of course, in the abstract, what the Senator says is correct. Applied, however, to what he and I were talking about, it is absolutely wrong in principle and can not be justified upon any theory of logic. The abstract statement is all right; but, applied to what he and I were talking about, I dissent from it in every particular.

This section is clearly a compromise between the divergent views of the two Houses. It may be said for the Senate that there is more of the Senate provision retained than there is of the House provision. It may be said, in conclusion of this matter, that section 5 is an effort at justice and fairness, and is intended to give a remedy to suitors who may not be as able as the Government to secure evidence. The provision takes no unfair advantage of anyone, but it does encourage those corporations who want to conform to the ideas of the Government and who desire to adjust their business and dissolve the combination in accordance with the demands of the Government. There is even an inducement that they should do so. This takes nothing from anyone. It is new matter and grants a privilege and a right to those injured by monopoly. The fact that we could not get all that the Senate may have wanted is no reason for defeating the bill and depriving the litigants of a substantial benefit.

Much comment has been made upon the striking out of the statute of limitation in section 4 as passed by the Senate. It has been assumed upon this floor that it will curtail the statute of limitation. That is erroneous. As the law now stands there is no general statute of limitation as to suits in equity in the United States courts. They are regulated by analogy to the statutes of the several States. As to most of them, the six-year period would shorten the time in which suits could be brought. The conferees could not agree upon a period, and finally, to settle the matter, that part of the provision fixing an iron-clad statute of limitation was stricken out. The law is left just as it is now.

Just to show, now, how the attacks upon this bill go, it has been assumed here because we cut out the statute of limitations of six years that that is in favor of the trusts; in other words, that it gives the Government less time in which to prosecute or bring a suit. Absolutely the contrary is the case. As the law now stands, there is no general statute of limitations as to suits in equity in the United States; and in my State such a suit would be barred only by analogy to the statute of limitations if the court should enforce it, or upon the general rule of laches, which, I take it, would never go against the Government. The statute of limitations now is left as it is in the States. There was a disagreement as to whether it should be four years or six years or longer, or less, and we could not agree upon it. Inasmuch as we have gotten along very well with the statute of limitations as it is, and we could not agree on the change to be made, we just struck it out and had no legislation at all on that subject.

Mr. REED. Mr. President, if the Senator will pardon me, I am not willing to let that comment go in that form.

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. I do.

Mr. REED. The Senator's statement that there is no statute of limitations in equity suits is true. As far as the Senator's statement went, it was probably correct; but the clause that was stricken out, and the elimination of which I objected to, covered criminal as well as civil cases.

Mr. CHILTON. Oh, well; I understand that. The Senator is correct.

Mr. REED. And it did extend the statute of limitations in a criminal prosecution from three years to six years.

Mr. CHILTON. That is correct.

Mr. REED. That was stricken out, although the Attorney General had expressly requested it.

Mr. CHILTON. That is right; and I voted for it, and would vote for it now if we could find any way to get it in here; that is, if we could be the House and the Senate at the same time.

Section 8 of the bill as passed by the Senate was carried in the bill as section 9 of the conference report. There was a slight amendment made to it. The bill as passed by the Senate makes it a crime to embezzle or willfully misapply the funds of a corporation engaged in commerce as a common carrier, or any property or funds arising or accruing from such commerce. The amendment made it apply not only to funds "arising or accruing from," but also "used in" such commerce. It was only an

effort to place the law clearly within the powers of the Congress. I will say in passing that that section and section 10 are submitted to the Senate as provisions having "teeth" in them.

Mr. President, the guiding star of the conferees was that it was the purpose an intent of both the Senate and the House that there should be no modification of the Sherman antitrust law. That has been construed by the courts, and when properly executed will reach the great combinations which have distressed commerce. In so far as that may fail, the new currency system will supply the deficiency, and the business of the United States will be hereafter free, if the laws shall be properly executed. This bill was not intended by either House to abolish trusts and monopolies, but to catch certain practices in their incipient stages and prevent them as far as Congress had jurisdiction so to do. This and the Trade Commission bill were intended to stop the practices which lead to monopoly. Certain well-known practices, price cutting, tying contracts interlocking directors, holding companies, are put in his bill in answer to platform declarations, and the true test of our jurisdiction to control them is written in the bill. After the House bill was passed the Trade Commission bill was put upon the statute books. That of necessity would modify the situation, because it was in this Senate that section 5, which denounced unfair competition, was put into the Trade Commission bill, and thereafter it became a question of determining whether or not—full jurisdiction having been given to the Trade Commission to deal with this subject—any of them should be dealt with as criminal offenses in this bill.

The Senate decided that only one of them should be made a criminal offense. That was tying contracts. The conferees on the part of the Senate could not retain that one criminal provision in the bill. The Senate conferees never at any time surrendered a position taken by the Senate where it was possible to retain it. The conference committee worked for many weeks, every day, and the conferees upon the part of the Senate did everything in their power to induce the House conferees to take the Senate bill section by section as it was passed by the Senate. It is injustice to use the word "surrendered" in this debate. I submit that it is unfair to the Senate conferees to make the deduction that there was any weakening upon the part of the Senate conferees. A conference necessarily means compromise. The very purpose of a conference is to report back to the two Houses the matters upon which the conference can agree, if possible. If the Senate wanted the House bill, the Senate had an opportunity to take it; but the Senate having discarded the principles of penal offense for these embryonic trust practices, the conferees upon the part of the Senate could see no reason for selecting one of the practices and making that a criminal offense and not doing so as to others even more reprehensible. Therefore the conferees adopted a way to reach a conclusion, dictated by reason; and the conferees submit again to the Senate the proposition that no one can give any good reason why tying contracts should be made a criminal offense and all of the others, even more reprehensible practices, which I have mentioned should be referred to the Trade Commission.

If the Trade Commission shall do its duty, the road to be traveled by those who engage in unfair methods of competition will be a most difficult and hard one. The guilty party can be put in jail until he does desist. The remedy is full and effective to meet the situation and stop the practices, and that, after all, is the purpose of the law. It leaves the Sherman antitrust law in full force and vigor, and it meets, in a sensible, practical way, those well-known methods of unfair competition which breed and develop the trusts. But this bill does even more: it settles forever all of those controverted questions affecting labor which have weakened the prestige of the Federal Government, and which have created a feeling among the people that the Federal courts have hidden powers that deprive men of their rights. This bill gives the right of jury trial in contempt cases and defines the things which Federal courts may enjoin and the things which they may not enjoin in labor controversies.

It has been said that this is class legislation. It is nothing of the kind. It is simply defining the policy of the United States for its courts in a State. If we should take away the power of injunction in labor disputes entirely from the Federal courts that is depriving no one of a remedy. The State courts are still open. It is a very small percentage of cases of this kind of which the Federal courts have jurisdiction anyhow. It so happens that in labor disputes sometimes one set of cases will be in a State court and another in the Federal court. This necessarily brings about friction. We would deprive no one of his remedy by taking away the power of injunction in such cases from the Federal court. This, however, has not been done. The holdings of the best of the authorities have been followed and the right of jury trial has been preserved. This will tend to create a better feeling; but whatever may be said about it it is in accordance with the Democratic platform and promise and is a full redemption of that promise. Employer and employee will now understand their rights. A nonresident person or corporation going into a State can now understand what the Federal court practice is in labor disputes. If he chooses to go into a jurisdiction which all of the other residents of that State can not invoke, he must do so under the rules laid down in this bill. Hereafter there will not be one rule in one district and another rule in another district. This applies to all Federal courts wherever they may be, and if a nonresident person or corporation does not like it the State courts are open to him as they are to the citizens of the State where the suit may be brought.

Section 15 of the House bill and section 16 of the Senate bill, which is section 17 of the conference bill, have been commented upon. This section 17 is practically the same as rule 73 of the Supreme Court rules. It has been said here that a secondary boycott is legalized by this bill. That is not correct, but whatever is legalized and whatever it may be called, these provisions are in the interest of justice and fair dealing and give to the courts all the power which the Federal courts should assume in any State. The bill simply prevents Federal courts from enjoining a person from doing what he might lawfully do and prevents such courts from enjoining a person from attending at any place where he may lawfully attend for a lawful purpose, and it does take labor and certain agricultural organizations from the ban (?) of the Sherman antitrust law so long as they conduct their organizations not for profit and without capital. This is putting into the law what was the understanding of it at the time it was enacted and what is the understanding of the best courts of the land now.

The labor provisions and the injunction provisions had little or no opposition in either branch of Congress. There is now an opportunity to settle these important matters and take them from the field of political agitation. It will be difficult to convince organized labor and the business men who want these questions settled that the Congress is in good faith for the injunction and labor provisions if the bill shall be defeated upon the ground that a penalty is not provided against the offense of tying contracts, that section 25 was stricken out, and that a few changes in phraseology were made in other sections.

The general scope of the things which are to be made illegal has been agreed upon. It is a forward step in reform and our promise to labor has been redeemed.

Now I come very briefly to two other sections, and then I shall have done.

There were two sections added to this bill in the Senate, one upon the motion of the junior Senator from Missouri as section 25 and one upon the motion of myself as section 26. My section 26 shared the same fate in the conference committee as his section 25; both were stricken out. I violate no confidence when I say, after the most vigorous argument I could make and after marshaling the strongest reasons for its passage and answering, as I thought, conclusively, all the arguments made against the section, I was humiliated to find that my section 26 shared the same fate as did the old colored man in my State who ran for mayor—it got but one vote, and I know who cast that vote. All of the other conferees on the part of both House and Senate refused to consent that section 26 should become a part of the law of the land.

Mr. REED. Mr. President, that is very interesting——

The VICE PRESIDENT. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. Certainly.

Mr. REED. I had understood that it was the part of our conferees when they went into conference to battle for the things the Senate had done. We are now informed that the only vote cast in favor of section 26 was cast by the Senator himself.

Mr. CHILTON. That was on the final vote. From the time when we first went into conference to the last hour of the last day the Senate conferees contended for the Senate bill as a whole and each one of the sections as a whole. Of course, while this was true of the initiative steps, it can be seen that if the Senate conferees and the House conferees had insisted on their respective measures in their entirety we would never have gotten the bill through. I mean to say, that when the final vote came mine was the only vote in favor of retaining the section.

I may be wrong, but I never could see any reason why Congress, whose powers over the subject of keeping the channels of interstate commerce clean are supreme, should do anything or permit anything to be done under its sanction which is obnoxious to the laws of a sovereign State. I have always been in favor of an amendment to our internal-revenue laws which will

stop the practice of the Government laying a tax upon a business which is outlawed in a State. In my opinion it is an insult to levy a tax upon a local business in that State, and thereby, in a sense, giving national sanction to the running of that business, when the laws of the State prohibit the business from being carried on within its borders. It tends to create friction; it discourages the enforcement of law in that State; and necessarily creates a feeling that the Government is a thing apart from the people, when our purpose should be to have the people of every county in every State love and respect the Federal Government. Likewise, I condemn the practice that one State should create a corporation and send it forth to do business in all of the other States, but prohibit it from doing business in the State which created it. Likewise, the Federal Government should pass no law which of itself legalizes the transaction of any business contrary to the laws of the State where the business is to be carried on. I expressed this idea as well as I could by section 26, and in order to make it free from any objection which was raised, I offered to amend the section so that it would not apply to those cases in which there could possibly be any conflict between the laws of the State and those of the Federal Government; for instance, to meet those cases wherein it has been held that where the Government of the United States has jurisdiction to legislate upon the subject, and does so, as in the case of navigable waters as part of interstate commerce, then, that the laws of the United States should always be supreme, notwithstanding any law of a State to the contrary. This would have met every objection which I have heard raised to section 26 as passed by the Senate; but, as I said before, the conferees disagreed from me, and instead of fighting this whole bill and depriving business, labor, and the public generally of the benefit of its many salutary provisions by defeating the whole bill, which a vote against the conferees' report will do, I surrendered gracefully and am willing to take the bill notwithstanding that I did not get all I wanted.

This brings me to section 25, the pet of the junior Senator from Missouri. In my experience with him in this Senate and upon the Judiciary Committee, I have learned that he is a great lawyer as well as a wonderful advocate. He has the legal ability to prepare a much better section, and has qualities as an advocate to defend a much worse one. The Senate conferees did their full duty as to section 25. It was only on the last hour of the last day of the conference that the Senate conferees finally yielded as to section 25, and it was stricken from the bill. We considered ourselves in duty bound to do so, though I must be candid and frank with the Senate, and this compels me to say that after an investigation of the subject and after hearing what the House conferees had to say, I was convinced that section 25 is, to say the most of it, a piece of doubtful legislation. In the first place section 25 singles out the monopoly or combine in restraint of trade and leaves out of the section other things in restraint of trade. There is brought within the purview of the section only the case of a corporation which shall acquire or consolidate or control the plants or property of other concerns. I doubt very much whether it would reach the holding company, but for the sake of the argument let us assume that the word "control" would reach the holding companies. The objections which were raised to the section were, first, that it is a direction to the court to prescribe a given remedy regardless of the circumstances surrounding the case. In other words, it compels the court not only to decree a dissolution but to appoint a receiver and wind up its affairs and cause all of its assets to be sold in such a manner and to such persons in order to restore competition as fully as it was before the corporation or combination began to be formed. It was argued with force that this was a reflection upon the courts, and was an assumption by Congress that the courts will not do their duty, if not a charge that the courts had not done so.

Mr. REED. Mr. President——

Mr. CHILTON. I think when I get through the Senator will find——

Mr. REED. I merely wish to ask the Senator if he does not think it is true that the courts have not done their duty in a great many instances.

Mr. CHILTON. I have lost many cases, and I have exercised the privilege of going behind the house and making a few remarks that may not be worth repeating regarding what the court has done, and I have condemned the courts in individual instances about as much as anyone, but there always comes a time when we forget those things. The softening hand of time brings us around to read the old record, to read the other fellow's brief, and we get a judicial temperament again. After all, as a rule, I would say that the courts do not decide cases wrong. I do not think the courts get wrong any oftener than probably we Senators do. I do not think they get wrong any oftener than other people do. I would dislike to think that I live under a Government where, as a rule, the courts are either ignorant or corrupt. I know the Senator does not think that; but I think they do often make mistakes; I think they do err just about like the common run of humanity. They make mistakes, and they may do foolish things at times.

Mr. REED. Does the Senator think it is a reflection upon the court for the lawmaking body in passing a law to prescribe the penalty?

Mr. CHILTON. In regular order I will say what I think on that point. I lay it down as a proposition that a court which will not honestly and effectively dissolve a combination after ascertaining that it is unlawful within the meaning of the Sherman law would be the kind of court which, to save the corporation, would refuse to find it guilty under a statute which fixed an unvarying decree to be entered. In other words, if the court will not be honest in administering the relief it would not be honest in deciding the facts, and if there were a court which wanted to save a corporation it could do so effectively by refusing to find it guilty, and would do that if the effect of finding it guilty would be to compel a decree required by Senate section 25.

The Sherman antitrust law requires the court to decree a dissolution, and the courts have been doing this by injunction; that is, the courts have been enjoining the different parts of the combination from acting until brought within the court's view of competitive conditions. It was the judgment of the conferees, therefore, that Congress would be going a little too far to say that it could not trust the courts of the United States to enforce the law. But the answer to this is that that is what the law does in fixing any penalty; and the response to the answer is that the Sherman law fixes a penalty for the violation of its criminal provisions; and that is after a trial by jury; and that terrible time has not yet come when we shall have the same severe judgments in civil causes which are provided in criminal cases after a verdict of a jury.

But there is a second objection which was raised to this section, which, to my mind, was most convincing, and that was that it might be a serious injustice to innocent men and might bring the laws of the United States in contempt in the States. Take, for instance, a combination which is made up of a New Jersey corporation which buys 60 per cent of the stock of a corporation in Massachusetts, 60 per cent of another corporation in West Virginia, and 60 per cent of another corporation in Missouri. Before it purchased this controlling stock of the three corporations the Massachusetts corporation had executed a mortgage upon its property to secure creditors by bond issue or otherwise. The West Virginia corporation may have leased property in West Virginia, and may have purchased property and issued bonds secured by a mortgage upon it. The Missouri corporation may have owned valuable franchises and rights and real estate in Missouri and had executed a mortgage upon its property. In addition to this, there may have been judgment liens upon the property of the corporations in each of the States, and their creditors or leinors would be entitled to participate in the assets of the corporation. We seriously doubt the power of a court of equity to do complete justice in a final winding up of these affairs to the creditors and lienors and security holders of the individual corporations. If the suit which the Government brings is not a creditor's suit, it does not marshal the assets of the corporation, nor does it convene the creditors.

As I understand the law, it is only in exceptional cases that a receiver appointed in one State, even by a Federal court, has jurisdiction outside of the State in which he may be appointed. I know that in the case of a railroad running through different States it has been held that the appointment of a receiver in one State will operate to put the whole property in the hands of the receiver upon the ground of necessity, it being held in that kind of a case that the property must be run as a whole, and that the receiver first appointed and taking possession has the right to the possession of the whole assets and to the whole line of the railroad in order to run it as a going concern, each one of the parts being dependent upon the other and it being impossible to run successfully a part of a railroad except in connection with every other part. But even in those cases the usual practice is to apply to the courts of each State in ancilliary proceedings and have the courts of every State through which the road may run to recognize the original receivership of the court which first acquired jurisdiction. There is another line of cases wherein the courts have held, as in the Charter Oak and Iron Hall cases, that the courts of the State which create the corporation and which provide for the appointment of a receiver could appoint such receiver, and that his jurisdiction would extend into any State in which the property of the corporation might be. That theory was sustained

upon two grounds: First, upon the ground that everyone dealing with the corporation was in duty bound to know the laws of the State which created it and that those laws were part of the contract which was entered into by everyone with the corporation, and that since those laws provided for the manner of appointing a receiver and winding up its affairs, when that law was complied with and the receiver was appointed he stood in the same attitude as a voluntary assignee in every State where there might be property of the corporation. It was further sustained upon the ground that complete justice could not be done to all of the stockholders, policyholders, and creditors of such a corporation by having its assets administered by several courts in different States, and in the very nature of the case complete justice could not be done to all parties interested except in one court where all of its assets could be marshaled and all of the creditors might be convened and the rights of all the stockholders and policyholders could be adjudicated.

It is a most dangerous piece of legislation, in my judgment. While I voted for it with the Senator from Missouri, and it struck me as being a good remedial piece of legislation, still when these facts and arguments were presented to me, notwithstanding the fact that I insisted upon it as one of the conferees of the Senate, I must say that when the argument was over I did feel that, in my judgment, the agreement of the conferees was the best thing to be done, and the most that I could say of it was that, in my judgment, it is a very doubtful piece of legislation.

Now, Mr. President, I want to say in conclusion——

Mr. REED. Will the Senator allow me to remark, in view of his recent statement, it is not difficult for me to tell how I lost my case when my counsel became so thoroughly convinced that I was wrong, and I should like to have the privilege of employing at least associate counsel before judgment was entered by consent.

Mr. CHILTON. Still, after all, in view of the peculiar duties which we have to perform here in legislating, one of the first things about it is that we shall be frank with each other, and if I feel that way I can not pretend to the Senator that I feel another way. It is for the Senate to determine whether or not the objections which I have frankly, candidly, and fully given here are not substantial ones. I have great faith in the ability of the Senator. I have found that when you convince him that he is wrong he is fair enough to admit it. I admire the way he fights. I admire the way he stands by a proposition. But, Mr. President, I think that the reasons that I have suggested here are so strong and so cogent that before this is over the Senator is going to say that, as now drawn, his section 25 is not only dangerous, but it is an impracticable piece of legislation.

Mr. REED. If the Senator expects me to stand here and make any such admission as that——

Mr. CHILTON. Not now.

Mr. REED. He will have to use some acumen other than he even hinted at or suggested, because, with all respect to the Senator, who is as ingenious as any man I ever knew, I think his attempt to attack this section is the most hopeless failure it is ever possible for a smart man to make.

Mr. CHILTON. We are where we started, then. The Senate can well see that if the Senator and I had been on the conference committee, this Congress would adjourn by limitation before we would ever agree upon a bill, certainly upon section 25 as an original proposition, from my present sources of information.

But in the case of winding up a combination, under section 25, there is no provision for marshaling the assets of a corporation, and, in my judgment, it could not be done in a suit brought by the Government. The Government institutes a statutory proceeding for the purpose named in the statute. Section 4 of the Sherman law provides that the several courts of the United States are vested with jurisdiction "to prevent and restrain violation" of the act. It then provides "such proceedings may be by way of petition setting forth the case and praying that such violation may be enjoined or otherwise prohibited." In other words, the Sherman law provides that a proceeding shall be brought by petition, and the case of the Government shall be set forth in the petition, and that the prayer shall be that the violation shall be "enjoined or otherwise prohibited."

Neither in the Sherman law nor in section 25 of the Senate bill is there any provision for winding up the business of a corporation or a combination, and it may be seriously doubted whether or not a court of equity could, on a petition praying that the violation of the law should be prohibited, go forward and administer all of the assets of the various corporations which make up the combination. At most, it would be an unwieldy proceeding. But the substantial objection to it is the injustice which would be done to creditors and stockholders and others holding contractual relations with one of the corporations in any of the States. Take, for instance, the corporations in Missouri, 60 per cent of whose stock was purchased, in the supposed case.

Say that the Missouri corporation had real estate, leases, and various franchises. The trust owned 60 per cent of the stock and the stockholders of Missouri owned 40 per cent. The citizens of Missouri owning the 40 per cent did not vote to go into the trust and, in fact, took no part in any of the trust arrangements. The 60 per cent of the stock was grabbed by the holding company, and that controlled all the property, leases, and franchises in Missouri, but the Missouri corporation was preserved as a separate entity. Now, when the court shall wind up the combination, would it sell the 60 per cent of stock owned by the corporation or would it wind up each one of the individual corporations, stock in which was owned by the trust? Suppose it would sell only the 60 per cent of the stock held by the corporation, who would buy it? The owners of the 40 per cent of the stock in Missouri would be thus left at the mercy of many conditions which they could in no way control. Would the court winding up the corporation call in 60 per cent of the Missouri stockholders and leave the other 40 per cent out when it was entering a decree which so materially affected the interest of the 40 per cent? Then, what would become of the creditors of the corporation in Missouri? What would become of the contracts of the corporation? The argument which has been made that there are no innocent minority stockholders may be true in quite a number of cases, but it could not be true in all cases. The history of these transactions teaches that there are many cases where innocent holders of a minority of the stock could be materially injured by this kind of a law. It is clear that the statute is aimed at the assets, because the section in question required the court to retain jurisdiction over the assets for a sufficient time to satisfy the court that full and free competition is restored. Even if we considered only the disposition of the 60 per cent of the stock, would it be equitable and just for the court to reserve the final disposition of the 60 per cent of the stock for an indefinite time, regardless of the rights and the interest of the owners of the 40 per cent, and regardless of the rights and interests of the creditors? When we come to a consideration of the creditors, it may be that the corporation has bonds issued upon which interest is to be paid at certain stated times, and in case of failure to pay interest the whole principal sum secured by the mortgage shall become due. The hands of the 40 per cent of stockholders in Missouri would be tied. They would have no income out of which to pay the interest due at the required period, and it might so happen that while the court was dealing with the 60 per cent and with its receiver the interest would be defaulted and the whole principal sum due under the mortgage would be declared due and payable under its terms, and all of the property would be subject to sale, and the innocent holders of the 40 per cent of the stock would lose everything which they had in the corporation. It seems to me now, after hearing all the facts and all of the arguments against this section, that it would be unwise legislation.

The eminent lawyer who drew this section was no doubt inspired by the loftiest of purposes, but I fear that he did not have before him sufficient data upon which to frame legislation that would do complete justice to everyone who might be involved. In this, as in every other matter affecting these combinations, we are dealing with a condition and not a theory. Creditors and stockholders in the different States have rights. Liens created and contracts made in the different States should not be ruthlessly dealt with, and the courts should not be compelled to enter a decree in every case unless we can say that in every case the innocent will not be injured, and the remedy which we provide will always do exact justice. When we compel a court to do a specific thing, in every case we should be sure that there is the best of reason for it and that approximate justice will be the result. In view of the fact that there is a grave danger that innocent people may be injured and that there is really no way by which the court can in a practical way wind up these combinations by receivership in every case, the conferees felt that the section as drawn would be a grave mistake. But there was another reason urged against this section which deserves consideration, and that is the constitutional limitation as to the power of the Federal court to enact legislation. As I have said before, we can only deal with interstate commerce, and about all that has been settled on that line is that we may regulate what is interstate commerce, and in regulating it we may prohibit and enjoin certain combinations and organizations from engaging in it, and we may keep the channels of interstate commerce clear; that is, we can pass laws that

will prevent any person or persons or combinations from clogging interstate commerce. We can regulate its instrumentalities and in that way exercise complete control over it. The great lawyers who prepared the Sherman antitrust law provided that the courts should prohibit these combinations and trusts. In other words, when the court finds that there is a monopoly or combination in restraint of trade it shall enjoin the things which violate the law. Now, suppose that a corporation of the State of West Virginia should become a part of a trust or combination in restraint of trade. The courts can undoubtedly enjoin it from engaging in interstate commerce, but can the courts confiscate its property? Can the courts confiscate its property as a punishment for crime after conviction by a jury?

If such a corporation of the State should be adjudged by a court to be a part of a combination in restraint of trade engaged in interstate commerce, could not the corporation say, "All right, I will pay the fine for this offense, and I will cease to engage in interstate commerce, and will retire to the State which created me, and will do business alone in that State, and will do only intrastate business; in other words, I will retire from the field of interstate commerce"? This would be legitimate and proper and clearly within its rights. The court has no power over any person or corporation except in so far as it may be necessary to exercise power to regulate interstate commerce. Section 25 of the Senate bill would prevent a corporation from taking this alternative. It is but just and fair that the Senate conferees offered to take this section 25 with an amendment making it optional with the court to appoint a receiver, but it could not keep the section in even with that offer. The Senate conferees obeyed the directions of the Senate in standing by the section until the time came when there could be no agreement with that section in the bill. They then yielded; and I have attempted to show the reasons why they did so, and I can not be frank with the Senate without saying that, in my judgment, the reasons were very strong, and if the matter were presented to me now I could not vote for the section in its present form. In my judgment it is impracticable; and if not impossible of enforcement, it would be so onerous and difficult of enforcement as to make it unwise.

Mr. President, this is a great constructive bill. Its purpose is to make certain things which have been uncertain. Its aim is to free business from suspicion and to allow every good man to go his way without fear and to make it possible for the Government to stop peremptorily any unfair methods which may lead to monopoly and restraint of trade. All of us should remember that the farmer, the workingman, the trader, and the professional man are stockholders, directors, and officers of thousands and thousands of corporations which are transacting business all over the United States.

It is not the purpose, and it ought not to be the purpose, of Congress to put these developers of the commerce of the country in perpetual fear. It ought not to be the law that when an active, energetic man in a community wants to be a director in a corporation he must go into the records of each corporation and analyze every possibility and probability of business and determine whether or not by accepting a responsibility or doing an ordinary act he will become a criminal. We must remember that 99 per cent of the transactions of this country are honest. The great majority of the people are honest. We want the people to engage in business. We want them to be enterprising and alert. It would be injurious to the business of this country to have it so that at every organization of a little corporation for the convenience of the people, and at every meeting of the board of directors of the apple companies, the orchard companies, the oil and gas companies, the stone companies, the coal companies, and the banks and other corporations, representing the activities of the people, it should be necessary to have an expert criminal lawyer always present. The fact is that when these little agencies of commerce are organized no one can tell where their activities and opportunities may lead them. They may become competitors of other corporations tomorrow when they are not to-day. We should encourage enterprise in the people and not stifle it. These two bills, when they become a law, together will make it so that the honest business man will not fear the blackmailer nor dread the unseen possibilities of a dragnet. He can go on, without fear, in any legitimate enterprise, and if others shall take his corporation into unfair practices the Trade Commission can regulate it, and he will have notice that what he had always understood to be a legitimate practice shall not be used as grounds for an indictment. I want to see business free from all unfair methods. I want to see the trusts and monopolies destroyed under the Sherman law. I want to see these unfair methods of competition stopped by the Federal Trade Commission. I want to see the banks made subservient to the people and instruments for their convenience under the direction of the Federal Reserve Board. That is the theory of these two bills.

I believe that this law will be the beginning of a better understanding between capital and labor, between the people and their Government, and that it will be the crowning act of that great constructive legislation which, beginning with the Interstate Commerce Commission, then followed by the Federal reserve act, and then by these two bills, will make a four-horse team that will put the power to compel a fair and just regulation of money, credits, transportation, and interstate business in the hands of the Government. It will then be up to the people to control their Government. The people can not control anything except through their Government. The mission of this administration is to put the Government into the hands of the people, and then give the Government power over these dangerous combinations, but do it in such a way as to assure, not to terrorize, legitimate business. I believe that they will take pride in doing so. These measures will free business from unlawful restraints and will start the people upon an era of prosperity which they have never known before.

It has been said that the President favors the adoption of the conference report. Knowing something of his good sense and of his practical way of meeting the duties which daily confront him, I would not be surprised that he is. He has not told me so, but, so far as I am concerned, nothing would give me more pleasure than to know that the humble part which I have taken in framing this legislation and on the conference committee has been crowned with a work which meets with the approval of the great Democratic leader, whose sound judgment in every crisis and whose poise in every national danger have attracted the admiration and compelled the respect of the entire people, not only of this country but wherever civilization exists.

Mr. LEWIS and Mr. NORRIS addressed the Chair.

The VICE PRESIDENT. The Senator from Illinois.

Mr. LEWIS. Mr. President, I inquire of the Senator from Nebraska if he desires to address himself to the pending question at some length?

Mr. NORRIS. I hardly know how long I shall speak, but I will say to the Senator that it will take me some time, and I am perfectly willing that the Senator from Illinois should proceed.

Mr. LEWIS. I will yield to the Senator from Nebraska. I dare say the Senator from Nebraska desires to present such objections as are in his mind to the conference report. Is that the purpose of the Senator?

Mr. NORRIS. I am opposed to the conference report, but I am perfectly willing that the Senator shall now proceed.

Mr. LEWIS. I thank the Senator from Nebraska. I did not assume to ask him what the line of his remarks was to be, but since the Senator from West Virginia [Mr. CHILTON], a member of the committee, has presented very fully his views, I take it that those on the other side of the question should be heard. I do not think, therefore, that I will intrude at this time, and I yield to the Senator from Nebraska, it having been understood that he was to speak, and a little later I will present myself for the recognition of the Chair.

Mr. NORRIS. Mr. President, I voted for this bill as it passed the Senate——

Mr. REED. Mr. President, before the Senator proceeds I should like to suggest the absence of a quorum. I do so with some hesitation, but the speeches this afternoon have been listened to for the most part by seven or eight Senators, and a discussion carried on under such circumstances is utterly useless. I therefore suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Lane	Overman	Smith, Mich.
Bryan	Lewis	Perkins	Smoot
Chilton	Martin, Va.	Pomerene	Sterling
Clapp	Martine, N. J.	Reed	Swanson
Culberson	Myers	Robinson	Thomas
Fletcher	Norris	Saulsbury	Thompson
Kern	O'Gorman	Sheppard	Thornton

The VICE PRESIDENT. Twenty-eight Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of the absentees.

The Secretary called the names of the absent Senators, and Mr. CHAMBERLAIN, Mr. LEA of Tennessee, Mr. PAGE, Mr. POINDEXTER, Mr. SHAFROTH, Mr. SHIVELY, and Mr. SMITH of Georgia responded to their names when called.

Mr. JONES, Mr. DU PONT, Mr. BRISTOW, Mr. TOWNSEND, Mr. JOHNSON, Mr. STONE, Mr. MCLEAN, Mr. WILLIAMS, Mr. SIMMONS, Mr. HUGHES, Mr. BANKHEAD, Mr. WEEKS, Mr. WHITE,

and Mr. McCUMBER entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

PETITIONS AND MEMORIALS.

Mr. CHILTON. I have received a telegram in the nature of a memorial from the oil and gas producers of St. Marys, W. Va., relative to the proposed tax on gasoline. I ask that the telegram be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the telegram was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

[Telegram.]

ST. MARYS, W. VA., *September 30, 1914.*

Senator CHILTON, *Washington, D. C.:*

Oil and gas producers of this district call attention to the fact that the revenue bill as it now stands is unjust in that it does not tax imported gasoline or gasoline in storage. Besides, is so excessive that its passage means a closing down of almost the entire casing-head gasoline industry.

J. D. DINSMOOR.
O. C. SWEENY.
W. C. DOTSON.

Mr. OLIVER presented memorials of sundry national banks and trust companies in the State of Pennsylvania, remonstrating against the proposed tax on capital and surplus of banks, which were referred to the Committee on Finance.

He also presented a petition of sundry citizens of Mercer County, Pa., praying for the enactment of the so-called Shackleford good roads bill, which was referred to the Committee on Appropriations.

He also presented a memorial of the Chamber of Commerce of Pittsburgh, Pa., remonstrating against the passage of the so-called Rayburn bill as affects the Carmack amendment relating to the liability of common carriers, which was referred to the Committee on Commerce.

He also presented memorials of sundry citizens of Pennsylvania, remonstrating against the proposed tax of 2 cents per gallon on gasoline, which were referred to the Committee on Finance.

He also presented memorials of the Pittsburgh Clearing House Association, of Pittsburgh, Pa.; of the Philadelphia Clearing House Association, of Philadelphia, Pa.; and of the Continental and Commercial National Bank, of Chicago, Ill., remonstrating against the adoption of the provisions in the so-called Clayton antitrust bill as to interlocking of bank directorates, which were referred to the Committee on Finance.

He also presented memorials of sundry citizens of Reading, Pa., remonstrating against the proposed rates of revenue tax on cigars, which were referred to the Committee on Finance.

He also presented memorials of sundry citizens of Pennsylvania, protesting against the proposed tax of $100 on moving-picture shows, which were referred to the Committee on Finance.

He also presented a memorial of the Philadelphia Board of Trade and the Maritime Exchange of Pennsylvania, remonstrating against the enactment of legislation providing for Government ownership and operation of merchant vessels in the foreign trade, which was referred to the Committee on Commerce.

He also presented a petition of the City Council of Pittsburgh, Pa., praying for the enactment of legislation providing for the pensioning of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

He also presented a memorial of the Trades Assembly of Bradford, Pa., remonstrating against the wholesale exportation of wheat and other foodstuffs to the nations now engaged in war, which was referred to the Committee on Finance.

He also presented a petition of the Pennsylvania State Camp, Patriotic Order Sons of America, of Philadelphia, Pa., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. WEEKS presented a petition of the Chamber of Commerce of Taunton, Mass., praying for the enactment of legislation to provide that goods covered by foreign patents taken out in this country shall be manufactured here, which was referred to the Committee on Patents.

Mr. McLEAN presented a petition of the Court of Common Council of Hartford, Conn., praying for the enactment of legislation to provide pensions for civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. SMITH of Michigan presented memorials of the Real Estate Board of Detroit, Mich., remonstrating against the proposed tax on real-estate conveyances, which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Grand Rapids, Mich., remonstrating against the proposed revenue tax on cigars, which was referred to the Committee on Finance.

He also presented memorials of the Michigan Bankers' Association, the Clearing House Committee of Detroit, and the National Bank of Commerce of Detroit, all in the State of Michigan, remonstrating against the proposed tax on capital and surplus of banks, which were referred to the Committee on Finance.

Mr. OWEN presented memorials of sundry citizens of Oklahoma, remonstrating against the imposition of an emergency tax on miscellaneous products, which were referred to the Committee on Finance.

He also presented memorials of sundry citizens of Oklahoma City, Tulsa, Durant, Muskogee, and Ardmore, all in the State of Oklahoma, remonstrating against the proposed tax on gasoline, which were referred to the Committee on Finance.

He also presented memorials of sundry bankers of Hartshorne, Pawnee, Marietta, Fort Towson, Woodville, Mangum, Amorita, Eakly, Tribbey, Claremore, Calera, Cushing, and Cherokee, all in the State of Oklahoma, remonstrating against the proposed tax on capital and surplus of banks, which were referred to the Committee on Finance.

INTERNATIONAL CONGRESS ON EDUCATION.

Mr. O'GORMAN. From the Committee on Foreign Relations I report back favorably, without amendment, the joint resolution (S. J. Res. 187) requesting the President of the United States to invite foreign Governments to participate in the International Congress on Education, and I submit a report (No. 800) thereon. I ask unanimous consent for the present consideration of the joint resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. Let the joint resolution be reported.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the joint resolution, which was read, as follows:

Resolved, etc., That the President of the United States is hereby authorized and requested to invite foreign Governments to appoint honorary vice presidents and otherwise participate in the International Congress on Education, to be held at Oakland, Cal., August 16 to 27, 1915, in connection with the Panama-Pacific International Exposition: *Provided,* That no appropriation shall be granted at any time hereafter in connection with said congress.

Mr. O'GORMAN. I desire to say that there is no expense attached to the Government in connection with the joint resolution.

Mr. SMOOT. Mr. President, I simply wish to state for the record that if I am here and an appropriation is ever asked for this purpose I shall oppose it.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE RECLAMATION SERVICE.

Mr. SMITH of Arizona, from the Committee on Irrigation and Reclamation of Arid Lands, to which was referred the joint resolution (S. J. Res. 172) excepting the Reclamation Service from the operations of section 5 of the act of Congress approved July 16, 1914, reported it without amendment and submitted a report (No. 799) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WEEKS (for Mr. SHERMAN):

A bill (S. 6557) granting a pension to Sarah J. Crackel; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 6558) granting an increase of pension to Rebecca L. Lapaugh (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Michigan:

A bill (S. 6559) to remove the charge of desertion from the military record of George W. Blakeslee; and

A bill (S. 6560) to remove the charge of desertion from the military record of Nelson H. Daniels (with accompanying papers); to the Committee on Military Affairs.

EMERGENCY REVENUE LEGISLATION.

Mr. THOMPSON submitted three amendments intended to be proposed by him to the bill (H. R. 18891) to increase the internal revenue, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

Mr. WILLIAMS submitted six amendments intended to be proposed by him to the bill (H. R. 18891) to increase the internal revenue, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

RECESS.

Mr. KERN. I move that the Senate take a recess until to-morrow at 11 o'clock a. m.

The motion was agreed to; and (at 4 o'clock and 45 minutes p. m., Thursday, October 1, 1914) the Senate took a recess until to-morrow, Friday, October 2, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate October 1 (legislative day of September 28), 1914.

UNITED STATES ATTORNEYS.

George W. Anderson, of Boston, Mass., to be United States attorney, district of Massachusetts, vice Asa P. French, whose term has expired.

Melvin A. Hildreth, of Fargo, N. Dak., to be United States attorney for the district of North Dakota, vice Edward Engerud, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 1 (legislative day of September 28), 1914.

AMBASSADORS EXTRAORDINARY AND PLENIPOTENTIARY.

Frederic Jesup Stimson to be ambassador extraordinary and plenipotentiary to Argentina.

Henry P. Fletcher to be ambassador extraordinary and plenipotentiary to Chile.

CHIEF OF BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

Edward Ewing Pratt to be Chief of Bureau of Foreign and Domestic Commerce in the Department of Commerce.

SURVEYOR OF CUSTOMS.

Cyrus W. Davis to be surveyor of customs in customs collection district No. 1.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

Lieut. Commander David W. Todd to be a commander.
Lieut. William W. Galbraith to be a lieutenant commander.
Lieut. John V. Babcock to be a lieutenant commander.
Lieut. (Junior Grade) Damon E. Cummings to be a lieutenant.
Lieut. (Junior Grade) Warren G. Child to be a lieutenant.
The following-named ensigns to be lieutenants (junior grade):
Ward W. Waddell.
Jesse D. Oldendorf.
James B. Rutter.
Midshipman William E. Malloy to be an ensign.
Charles W. Depping to be an assistant surgeon in the Medical Reserve Corps.
Ensign Stuart S. Brown to be a lieutenant (junior grade).
Talmadge Wilson to be an assistant surgeon in the Medical Reserve Corps.
John D. Target to be an assistant surgeon in the Medical Reserve Corps.
Walter W. Cress to be an assistant surgeon in the Medical Reserve Corps.
Boatswain Thomas James to be a chief boatswain.
Lieut. Joseph L. Hileman to be a lieutenant commander.
Lieut. (Junior Grade) John W. W. Cumming to be a lieutenant.
The following-named lieutenants (junior grade) to be lieutenants:
Augustin T. Beauregard.
Herbert S. Babbitt.
The following-named ensigns to be lieutenants (junior grade):
Lee P. Johnson.
Robert G. Coman.
Robert H. Bennett.
Vance D. Chapline.
Joseph A. Murphy.
Ervin L. Matthews to be an assistant surgeon in the Medical Reserve Corps.
Robert L. Nattkemper to be an assistant surgeon in the Medical Reserve Corps.
Machinist John W. Merget to be a chief machinist.
Arthur Freeman to be an assistant surgeon in the Medical Reserve Corps.
Fredric L. Conklin to be an assistant surgeon in the Medical Reserve Corps.
A. Contee Thompson to be an assistant surgeon in the Medical Reserve Corps.

POSTMASTERS.

ALABAMA.

C. N. Parnell, Maplesville.

GEORGIA.

George G. Brinson, Millen.
Emma Pettis, Cave Spring.

MISSISSIPPI.

Edgar G. Harris, Laurel.

MISSOURI.

J. Vance Bumbarger, Memphis.

NEBRASKA.

H. C. Letson, Red Cloud.

NEW MEXICO.

Charles M. Samford, Hagerman.
James L. Seligman, Santa Fe.

NEW YORK.

Elbridge J. Stratton, Theresa.

OKLAHOMA.

Preston S. Lester, McAlester.

SOUTH DAKOTA.

Anton Koch, Isabel.

TENNESSEE.

John B. Dow, Cookeville.
B. F. Grisham, Newbern.
P. L. Harned, Clarksville.

HOUSE OF REPRESENTATIVES.

THURSDAY, *October 1, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father who art in Heaven, we bless Thee for that sublime optimism, born of faith in Thee and in humanity, which confidently looks forward to the triumph of right and truth and justice, and we most fervently pray that we may work together with Thee to that end, under the spiritual leadership of Thy son Jesus Christ. For Thine is the kingdom, and the power, and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

QUESTION OF PERSONAL PRIVILEGE.

Mr. GORDON. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. GORDON. On the last day this House was in session having under consideration the Philippine bill this colloquy occurred——

Mr. MANN. What day?

Mr. GORDON. Page 15849.

Mr. HENRY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas [Mr. HENRY] makes the point of order that there is no quorum present. The Chair will count. [After counting.] Evidently there is no quorum present.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman from Alabama [Mr. UNDERWOOD] moves a call of the House. The question is on agreeing to that motion.

A call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Ansberry	Browning	Connolly, Iowa	Elder
Austin	Bryan	Conry	Falson
Barchfeld	Burke, Pa.	Copley	Falconer
Barkley	Burke, Wis.	Curry	Ferris
Bell, Cal.	Calder	Dooling	Fields
Brockson	Candler, Miss.	Doughton	Fitzgerald
Brodbeck	Cantor	Driscoll	Francis
Broussard	Carr	Eagle	French
Brown, N. Y.	Church	Edmonds	Gard

Gardner	Hughes, W. Va.	Loft	Scully
George	Humphrey, Wash.	McClellan	Shreve
Gillett	Humphreys, Miss.	McCoy	Slemp
Gilmore	Johnson, Wash.	Mahan	Smith, Md.
Godwin, N. C.	Keister	Martin	Smith, N. Y.
Goldfogle	Kelly, Pa.	Merritt	Sparkman
Goulden	Kent	Metz	Stedman
Graham, Ill.	Kiess, Pa.	Montague	Stevens, N. H.
Graham, Pa.	Kindel	Morin	Stringer
Gregg	J. R. Knowland	Mott	Sumners
Guernsey	Konop	Murdock	Taylor, Colo.
Hamill	Korbly	O'Shaunessy	Treadway
Hamilton, N. Y.	La Follette	Page, N. C.	Walker
Hammond	Langley	Paige, Mass.	Wallin
Harris	L'Engle	Palmer	Walsh
Helgesen	Lenroot	Parker	Watkins
Hensley	Levy	Patten, N. Y.	Whaley
Hill	Lewis, Pa.	Powers	Willis
Hinebaugh	Lindbergh	Prouty	Wilson, N. Y.
Hobson	Lindquist	Rainey	Winslow
Howard	Linthicum	Reed	Woodruff
Hoxworth	Lloyd	Sabath	

A number of Members having appeared at the bar to have their names recorded,

Mr. CARTER. Mr. Speaker, am I recorded?

The SPEAKER. The Clerk will see if the gentleman from Oklahoma is recorded.

Mr. CARTER. Am I recorded?

The SPEAKER. The gentleman is not.

Mr. CARTER. I wish to be recorded.

The SPEAKER. The Clerk will record the gentleman's name.

Mr. WHITACRE. Mr. Speaker, I wish to be recorded.

The SPEAKER. The Clerk will record the name of the gentleman from Ohio. The Chair will state that this overflow, as it may be called, on roll calls is getting to be almost equivalent to a third roll call, and the Chair advises all Members to examine the rule book carefully to see if they have the right to answer at all under such circumstances.

Mr. CARTER. I will state, Mr. Speaker, that I answered to my name, but I was not sure that it had been recorded.

The SPEAKER. The Chair understands. His remark has nothing more to do with the gentleman than with any other Member of the House. It is a waste of time.

Mr. UNDERWOOD. What is the announcement, Mr. Speaker?

The SPEAKER. On this roll call 306 Members have answered to their names.

Mr. UNDERWOOD. Mr. Speaker, I move to suspend further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors. The gentleman from Ohio [Mr. GORDON] is recognized.

Mr. GORDON. Mr. Speaker, on last Monday, the last day on which the Philippine bill was under consideration, the following colloquy occurred on the floor of this House:

Mr. GORDON. Will the gentleman yield?

Mr. FESS. I think I will have to yield.

Mr. GORDON. I simply want to ask you if you are sure about your figures when you say that 85 per cent of those people are unable to read or write?

Mr. FESS. I take that from the statement of the gentleman from Minnesota [Mr. MILLER], who, when asked about it, confirms the statement.

Mr. GORDON. I will say to you that you are mistaken. The literacy in the Philippines is higher than it is in any country south of the United States.

* * * * * * *

Mr. FESS. My colleague is capable of any sort of a statement, without regard to whether it is true or not, and therefore I shall not enter into a controversy longer with him. I can not allow anybody to interrupt me who has absolutely no regard for what he says. [Applause on the Republican side.]

Now, Mr. Speaker, it is not my purpose to engage in competition with the gentleman from Ohio in the use of billingsgate or in the bandying of epithets, but I simply desire to state to this House that I was constrained to interrupt the gentleman upon the highest possible ground of public policy.

Mr. MANN. Mr. Speaker, I make the point of order that the gentleman has not stated a question of personal privilege. If the gentleman desires some time and will give this side time, I shall have no objection.

The SPEAKER. The gentleman asks for five minutes.

Mr. HAY. Mr. Speaker, I think the gentleman from Ohio [Mr. GORDON] has stated a question of personal privilege. The gentleman from Ohio [Mr. FESS] has practically stated that what the gentleman stated is untrue, and that is a question of personal privilege.

The SPEAKER. The only reason the Chair stated that the gentleman asked five minutes was to expedite matters. The Chair thinks, as he decided upon the point of order raised by the gentleman from Illinois on December 12, 1912, that it is a question of privilege.

Mr. FESS. Mr. Speaker——

The SPEAKER. The Chair did not decide, of course, as to this particular language. It is only a question of whether it reflects upon a Member in his representative capacity.

Mr. MANN. Mr. Speaker, I do not think that is the point of order. The point of order is whether words spoken in debate and not taken down give rise to a question of personal privilege hereafter. If the Speaker holds that they do——

The SPEAKER. The gentleman from Illinois and myself both know, and so do a good many others, that there are many Members of the House who never investigate the rule about taking down words and do not know anything about it, and they lose their opportunity that would come up under that rule. The Chair is not passing upon this language in this particular case in what he is going to say in a general way, but the practice by which one Member can stand up here and vilify another about what he is saying in his representative capacity, and because he does not understand that rule about taking down words the complaining Member loses his opportunity to have the matter corrected——

Mr. FESS. Mr. Speaker——

Mr. GORDON. Mr. Speaker, to save time I will ask unanimous consent that I may be permitted to address the House for five minutes.

The SPEAKER. The gentleman from Ohio asks unanimous consent to address the House for five minutes. Is there objection?

Mr. FESS. Mr. Speaker, I hope there will be no objection to that.

The SPEAKER. Is there objection?

There was no objection.

Mr. GORDON. As is well known to the membership of this House, there have been several questions of fact raised here between the gentleman from Ohio [Mr. FESS] and myself. We are not upon especially friendly terms, and I was extremely reluctant to interrupt him the other day, and would not have done so except with his consent and upon what I deemed to be the highest reasons of public policy. He had stated that 85 per cent of the people of the Philippine Islands are illiterate. I called his attention to the statement. I had not at hand the figures and data to refute it at that time, but I have since looked into the question, and find that a census taken by the Government of the United States in 1903 reported that only 55.5 per cent of the people of those islands were then illiterate, and since that time, as has been stated in speeches which we have heard on the Republican side, a "campaign of education" has been going on over there, so that we have a right to assume that the people have not declined in literacy to the extent of 30 per cent as a result of that campaign of education. We have had several insurrections over there, and when members of the Committee on Insular Affairs, availing themselves of the privileges of the floor of this House, see fit to make erroneous statements concerning those people upon a question like their literacy or illiteracy, upon which any people are extremely sensitive, it seems to me it imposes a grave duty upon the House itself and every Member in it to call attention to the misstatement, whether it is made intentionally or not. That was the sole purpose for which I rose, and I do not care to carry on this discussion. I think I can place my reputation for veracity, standing, or character alongside that of any other Member of this House among the people who know me. [Applause.]

Time at last sets all things even. Justice travels with a leaden heel, but strikes with an iron hand.

I thank the House for its courtesy. [Applause.]

Mr. FESS. Mr. Speaker, I ask unanimous consent for one minute.

The SPEAKER. The gentleman from Ohio asks unanimous consent to address the House for one minute. Is there objection?

There was no objection.

Mr. FESS. Mr. Speaker, the announcement that my colleague [Mr. GORDON] made a moment ago—that we were not on the most friendly terms—is a surprise to me, for I had no intimation that that was true. I did not know that there was anything at all between Mr. GORDON and myself. That may seem strange to some people, but I am not responsible for the gentleman's feeling on that matter. In the second place, if the Speaker referred to me in his statement to the House that if anyone thought he could get up here and vilify a Member, and allow it to pass, when the Member might not know his recourse by having the words taken down, I want to apologize to the Speaker and to the House if any words from my lips appeared to be in the form of vilification, for I did not mean them in that way; and to my friend [Mr. GORDON] I want to say pub-

licly that I have absolutely no ill feeling toward him, and if it shall appear that I have wronged him, I will be glad to make a public apology and ask that the words be taken from the RECORD, for I have no intention of doing anything of the sort. [Applause.]

The SPEAKER. The Chair will state that the Speaker stated positively and plainly that the remark he made did not apply to this particular case, and was not intended to, but laid down a general proposition in answer to a point of order made by the gentleman from Illinois [Mr. MANN].

Mr. MILLER. Mr. Speaker, I ask unanimous consent to address the House for not to exceed three minutes.

The SPEAKER. The gentleman from Minnesota asks unanimous consent to address the House for not exceeding three minutes. Is there objection?

There was no objection.

Mr. MILLER. Mr. Speaker, inasmuch as the altercation of the other day, which has been brought to the attention of the House this morning, started possibly from the speech which I had made a few hours previously, and inasmuch as the gentleman from Ohio [Mr. GORDON], with commendable industry, has been searching the records to endeavor to find facts to establish what he then said, and has made a statement with regard to literacy in the Philippine Islands, it may be proper that I say a word respecting literacy in the islands. In the first place, the statement which was quoted by the gentleman from Ohio——

Mr. SHERWOOD. Which one?

Mr. MILLER. The statement of the gentleman from Ohio, Mr. FESS, in reference to literacy, he inadvertently doubtless made because he understood me to say that 85 per cent of the inhabitants of the islands were illiterate. The figures which I gave at that time were in respect to the proportion of the Philippine people who were acquainted with and had a proper appreciation and knowledge of the meaning of independence, or the institution of independence, the 15 per cent being the class who did and the 85 per cent being the class who did not. But even at that, Mr. Speaker, the statement of the gentleman from Ohio is perhaps well within the facts, as they are pertinent to the discussion which we had at that time.

Mr. ANTHONY. Which gentleman?

Mr. MILLER. Mr. FESS. It is not true that 85 per cent of the population of the Philippine Islands to-day are illiterate. Why? Because beneath the Stars and Stripes the American schoolhouse has been there for 14 years. [Cries of "Oh!" on the Democratic side.] Wait a moment. Talk all you please when I have finished.

The SPEAKER. The House will be in order.

Mr. MILLER. The children of the islands are literate, as far as their schools have been able to furnish them facilities.

Mr. BURNETT. What did Mr. FESS say that for then? Did he not intend to tell the truth?

Mr. MILLER. Never mind. I can not yield. I have but three minutes.

The SPEAKER. The gentleman declines to yield.

Mr. MILLER. But if it be said in respect to the adult people, those who are charged with public affairs to-day and with the administering of any political institutions that might be established by reason of independence, including both civilized and uncivilized peoples, it is probably entirely and absolutely correct. [Applause on the Republican side.] There are regions where a very much larger per cent are literate; then there are regions where practically the total population are illiterate.

One word further. There are certain qualifications the possession of any one of which enables a man in the Philippine Islands to vote to-day. One is property and one is education—the capacity to read or write Spanish or English. If a man has any literacy at all, he should be able to read or write Spanish or English. But even under those liberal terms, in the election of 1912, their last election, there were but a little over 240,000 voters out of a population of more than 8,000,000 people, and of those 240,000 more than 70 per cent were absolutely illiterate.

The SPEAKER. The time of the gentleman has expired.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent that a Senate bill on the Speaker's table, an innocent little uncontested bridge bill, be taken up for immediate consideration, there being an identical House bill on the calendar.

Mr. JONES. Will the gentleman delay that just a moment to allow me to make a request?

Mr. ADAMSON. I certainly will, for the purpose indicated.

Mr. JONES. I ask unanimous consent to address the House for five minutes.

Mr. MANN. Mr. Speaker, I think I will ask for the regular order.

THE PHILIPPINE ISLANDS.

The SPEAKER. The regular order is to go into Committee of the Whole House on the state of the Union. Under the rule the House will resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18459, the Philippine bill.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. FLOOD of Virginia in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill of which the Clerk will read the title.

The Clerk read as follows:

Mr. JONES. Mr. Chairman, before yielding to the gentleman from the Philippine Islands [Mr. QUEZON], I wish to consume about two minutes in making a statement. The gentleman from Minnesota [Mr. MILLER], who has just addressed the House, has undertaken to justify a statement which he made on Monday last as to the extent of illiteracy in the Philippine Islands. I hold in my hand the fourteenth special report of the director of education of the Philippine Islands, which has just been received but which has not as yet been printed. In this report the director of education states that in the year 1866 there were 1,674 schools reported, with an attendance of 135,000 boys and 12,260 girls; in all, 147,260 Filipinos in the schools in 1866. In the year 1892 the number of schools had increased from 1,674 to 2,173.

I also have before me a book written by the confidential secretary of Mr. Dean C. Worcester, who was until recently the commissioner of the interior of the Philippine Islands. Another and larger edition of this book has recently been published, the introduction to which was written by former President Taft, who testifies to the accuracy of statement of the author. This book was written in 1905, and its author makes this statement in it:

> One may fairly say that approximately one-half the Christian population over 10 years of age is literate. But this includes the people of the most backward and outlying Christian settlements, in the mountains of north-central Luzon, in unsettled islands like Mindoro and Palawan, and on the outskirts of Mindanao.

That was nine years ago. Since that time there has been on an average 600,000 children in the Philippine schools, and I am absolutely justified in saying, and the statement will be supported by those familiar with the facts, that 75 per cent of the inhabitants of the Philippine Islands to-day over 10 years of age in the Christian Provinces are literate. [Applause on the Democratic side.]

Mr. TOWNER. Will the gentleman yield?

Mr. JONES. To a question.

Mr. TOWNER. I understood the gentleman to say that in 1866 there were 147,000 children in the public schools.

Mr. JONES. Public and private.

Mr. TOWNER. How many in the public schools and how many in the private?

Mr. JONES. A large majority of them in the public schools. Now, Mr. Chairman, I yield 20 minutes to the gentleman from the Philippine Islands [Mr. QUEZON].

Mr. QUEZON. Mr. Chairman, the bill we are now discussing is of momentous importance to 10,000,000 people on the other side of the Pacific Ocean; it affects their life, their property, their welfare, and, what is more vital than all else, their liberty. The action of the Congress upon this bill will determine whether the long struggle for freedom, wherein those people have been engaged with untold sacrifice in life and wealth, will be crowned with success or doomed to disheartening failure

The bill is also important to 100,000,000 people on this side of the Pacific; it puts to a test the foundations of their national life and it affects their national duty as much as their national honor.

SIGNIFICANCE OF THE BILL.

Let no man upon this floor have any doubts regarding the nature of the question upon which he is to vote. In its last analysis that question is simply this: Will you, as a Christian and powerful Nation, do to another Christian but weak nation what the Golden Rule commands you to do? Will you, as the offspring of those who pledged their lives, their property, and their sacred honor to the enforcement of the principle that all men are born free and are entitled to their freedom, and that just governments derive their powers from the consent of the governed, be true to the covenant of your fathers? Nay, the question involves more than the observance or disregard of a duty imposed by general or, as some may cynically say, outworn principles. The question is whether you are ready to redeem or would prefer to repudiate concrete and recent prom-

ises, both expressed and implied, made in the name of your faithful and honorable Nation to the people of the Philippine Islands, that the dawn of a glorious day shall come when full justice will be done them and when every opportunity shall be given for self-development and progress under the auspices of their own free and independent flag. [Applause.]

THE PHILIPPINE ISLANDS.

Mr. Chairman, the Philippines are an archipelago lying between latitudes 21° and 40° north and between meridians 116° and 127° east longitude. On these islands nature has bestowed with generous hand and in harmonious combination her riches and her beauties. Millions of acres of agricultural land capable of growing all kinds of tropical products; forests with excellent woods in large quantity and variety; mines of gold and silver and rich deposits of lead, iron, and petroleum; glorious sunsets, moonlight and stormy nights, cascades, lakes, valleys, rivers, mountains, volcanoes, enchanting inland seas, and beautiful panoramas make this land the "Pearl of the Orient."

This is the country which in the daybreak of a beautiful May morning of 1898 witnessed the majestic entrance into Manila Bay of a powerful fleet bearing the death sentence of Spanish sovereignty in the Philippine Islands.

THE FILIPINO PEOPLE.

This country was then, as it is now, the dwelling, the home, of a people homogeneous in race, one in religion—with the exception of a proportionately small number of uncivilized non-Christians—welded together into a common nationality and united in a single overmastering ambition—to be free and independent.

These people had then been, for three long centuries, subject to the civilizing and ennobling influence of the doctrines of the Saviour, which they had espoused and which taught them the equality and the dignity of men. Science, arts, and letters were then familiar subjects among the leaders of that people, as public instruction was already within reach of the masses, a large percentage of whom were literate before American occupation. Social life among the wealthy and highly educated class was similar to that of the corresponding class in western Europe, except that there were never aristocratic tendencies among the wealthy and educated Filipinos. An ideal home with mutual devotion between husband and wife and between parents and children constituted the solid foundation of this growing nationality. The hospitality and sobriety of these people were then, as they are now, among their most conspicuous characteristics, just as their thirst for education and love for freedom were and are their greatest national virtues.

Such are the people who a decade and a half ago fell under the sovereignty of the United States, and in whose interest the Congress is now called upon to legislate.

PUBLIC SCHOOLS DURING THE SPANISH RÉGIME.

Mr. Chairman, I am so pressed for time that I should have stopped with the foregoing general description of the Filipino people were it not for certain statements made by the gentleman from Minnesota [Mr. MILLER] that require to be answered with concrete data. The gentleman from Minnesota in the course of his speech said that—

When the American flag was first unfurled in that part of the globe there was no adequate system of public instruction. There was a "paper system"—

He said—

promulgated by the Spanish Government, which was never put into effect.

Then he proceeds:

If you could read the beautiful reports which the Governor General sent back to the Cortes of Spain, you would find many glowing accounts of the schools and the teachers and the pupils, but the teachers and the schools and the pupils had little physical existence outside of the imagination of the man who penned the lines. There were some schools back a little earlier than 1898. They were church schools; there were no public schools, however, under the supervision of the Government excepting a limited few.

Mr. Chairman, at the time these remarks were made by the gentleman from Minnesota he was kind enough to allow me to make the statement that there were public schools in the Philippines long before American occupation, and that, in fact, I was myself educated in one of those schools, although my native town is a very small village isolated in the mountains of the northeastern part of the island of Luzon. What I then said I now reiterate.

That the system of public instruction established by the Spanish Government was far less efficient than the system established by the United States is, of course, unqualifiedly true; but that such a system was to be found only on "paper," and that the teachers and the schools and the pupils had little actual existence outside of the "imagination" of the man who wrote that paper is very wide of the mark.

Why, Mr. Chairman, as early as the year 1866, when the total population of the Philippine Islands was only 4,411,261, and when the total number of municipalities in the archipelago was 900, the number of public schools was 841 for boys and 833 for girls, and the number of boys attending these schools was 135,098 and of girls 95,260; and these schools were real buildings, and the pupils alert, intelligent, living human beings. In 1892 the number of schools had increased to 2,137, of which 1,087 were for boys and 1,050 for girls. I have seen with my own eyes many of these schools and thousands of these pupils. They were not "church schools," but schools created, supported, and maintained by the Government.

How real these schools were can be gathered from the paragraph that I shall directly read from the Philippine census—an American-made document. It should be noted that to a certain extent the census shares the pessimistic views of the gentleman from Minnesota regarding said schools, yet it admits that the schools were something more substantial than the creatures of a prolific imagination. After giving the number of schools and pupils as I stated them and depicting the deficiencies of that system of education, the census makes this remarkable admission:

Popular instruction attained a more than average advance, evidently due to the natural talent, the virtue of the race, and its precocity and willingness to be educated, all of which were characteristic and common qualities of young Filipinos.

How could any advance in popular instruction have been possible if the schools and the pupils did not exist in reality and in the flesh?

LITERACY PRIOR TO AMERICAN OCCUPATION.

There is still another evidence of the existence of old schools and of the pupils I have described. According to this same census, those who could neither read nor write when you arrived at Manila were only 55.5 per cent of the population 10 years of age and over. How did the remaining 44.5 become literate? By intuition perhaps? [Laughter.]

I am inclined to believe, Mr. Chairman, that the utterances of the gentleman from Minnesota [Mr. MILLER] upon which I have commented were more or less rhetorical figures of speech. The gentleman's gift as a born orator will not permit him to adhere merely to bare, cold facts. He doubtless meant only to convey to the committee a graphic idea of the unsatisfactoriness of the Spanish system of education and of the poor quality of the schools as compared with the system and the schools we now have. If so, the gentleman from Minnesota has more than a mere excuse for his statement; he has a justification in fact. [Laughter and applause.]

But while I could thus explain the seeming inaccuracy of the gentleman from Minnesota, I am at a loss to understand, Mr. Chairman, how it was possible for the gentleman from Ohio [Mr. FESS], a distinguished and learned professor as he is, to make upon this floor the amazing remark that to-day 85 per cent of the population of the Philippines can neither read nor write.

It will be noticed that the figures of the census I have already cited regarding persons who could neither read nor write were 55.5 per cent, or 30 per cent lower than the figures given by the gentleman from Ohio; and, further, that those figures of the census represented the degree of literacy prior to 1903, while the figures of the gentleman from Ohio refer to the supposed illiteracy in this year of grace 1914. Is it possible that illiteracy in the Philippines was lower before American schools were established there? Have we, then, retrograded? Can these American schools have served to render the Filipino people more illiterate than before? What a humiliating tale would that be for the American government in the islands, whose beneficial and uplifting influence has been so enthusiastically described by the gentleman from Ohio himself. Fortunately for you and for us, Mr. Chairman, and for the common glory of both your teachers and our youth, such is not the case, for instead of going backward we have, as everybody knows, gone onward by leaps and bounds. [Applause on the Democratic side.]

PRIVATE SCHOOLS, COLLEGES, AND UNIVERSITY UNDER SPAIN.

Mr. Chairman, returning to the condition of education during Spanish régime, I have shown convincingly to the most skeptical, I think, that there were public schools in the Philippines, though not half as good or as numerous as the schools of to-day, half a century before American occupation, and that those schools were not private or church schools, as the gentleman from Minnesota would have us believe. It is absolutely true, however, that besides these public schools there were also private schools, as there were colleges and one university where professional training was given. Some of these institutions preceded for many hundred years the establishment of Government schools. Founded and supported by private funds, these institu-

tions were to be found not only in Manila but in the Provinces as well. The more important of the colleges were Santo Tomás, San Juan de Letrán, Ateneo Municipal, Escuela Normal, San José, Escuela Náutica National, Escuela de Contaduría, Academia de Pintura y Dibujo, and the seminaries in Manila, Nueva Segovia, Cebu, Jaro, and Nueva Caceres. The college of Santo Tomás, founded in 1519, was converted into the university of the same name in 1645, since which date this institution of learning has given to the scientific world distinguished men in almost every branch of science. Bishops, members of the Spanish Parliament, high officers in the Spanish Army, priests, judges, doctors in philosophy, in medicine, and in laws are to be found in the long list of distinguished pupils of this ancient alma mater of the Filipino youth. Living witnesses to-day of the efficiency of these colleges, seminaries, and this university are the three Filipino members of the insular supreme court, among them the chief justice, who was honored by the University of Yale with the degree of doctor of laws, the Filipino members of the Philippine Commission, the two Filipino bishops of the Roman Catholic Church, the speaker and members of the Philippine Assembly, the attorney general, the Filipino judges of the courts of first instance, the provincial fiscals (prosecuting attorneys), the provincial governors, some of the Filipino treasurers, and some of the professors in the government university—in a word, almost every one of the Filipino officials occupying responsible and important positions now, since they were all educated at those centers, the youth educated in American schools not having as yet attained the maturity to occupy such positions.

AMERICAN PUBLIC SCHOOLS.

Mr. Chairman, enough of this history. Let me now come down to the education of the day. I need not, I am sure, long detain the committee on this subject, for there are few things among those accomplished in the Philippines during your time that have been so widely published as the work done in education. It may not be amiss, however, to indicate that the average enrollment for the last 10 years of our public schools has been half a million, and that the number of public schools, according to the latest report of the director of education, is 4,304. How much these schools have accomplished can be gathered from the following statement of the Chief of the Bureau of Insular Affairs in his report to the Secretary of War of March, 1913: "At least 3,000,000 children have been instructed in English," said Gen. McIntyre.

There is a further evidence of the achievement of these schools. When they were first established in the islands, in view of the fact that all the instruction had to be given in English, and that there were scarcely any Filipinos who knew this language, few, if any, Filipinos were appointed teachers. To-day, of the total of 9,483 teachers teaching English 8,825 are Filipinos. I shall pause here, Mr. Chairman, long enough to compare the statement made by the gentleman from Minnesota as to the capacity of the Filipino teacher to take charge of a school independent of any American supervision with that recently made by the director of education.

Let me read what the gentleman from Minnesota said in his speech:

I also wanted to see what was the result to the school of removing American supervision. So I traveled and I saw. I found that wherever American supervision was immediate, was direct, was there on the ground, the work of the teacher and the children and the school was efficient. It was what you might call satisfactory. The spirit was good. The morale was good. Things were shipshape. The atmosphere was such as you would like to see in a school. But, without a single exception, when you removed that immediate supervision and allowed a school in charge of a Filipino teacher to be removed and separated and to exist by itself the decline was immediate and most disheartening.

Oh, I visited so many of the schools that if they had not been named "schools" I would never have known that they were schools, because the supervision was not there, eloquently testifying to the capacity of the Filipino teachers to respond to the ideas that they see and to the utmost importance of the supervision and direction on the part of the American supervising force. This does not mean the Filipino teacher never can be self-reliant; it simply means that, while advancing, he has not yet reached it.

Contrast with this the words of the director of education in his special report of January 23, 1914:

It has been the policy of the bureau of education to lay an increasing amount of responsibility upon the Filipino teacher. As a result, where five years ago there were 70 Filipino and 390 American supervising teachers, there are to-day 124 Filipino supervising teachers and 185 American. Moreover, there are a number of Filipinos assigned to work which is at least equal in importance and responsibility to that of the supervising teachers. There are now 29 Filipino provincial industrial supervisors, and this number will be constantly increased. There are at present 120 intermediate schools with Filipino principals. Five years ago there were 208 Filipino and 366 American teachers engaged in intermediate instruction. At the present time there are 430 Filipinos and 148 Americans. Primary instruction, except in a very few classes where special work is being carried on, is entirely in the hands of Filipinos.

It would not be far from the truth to state that the school system as it existed seven years ago, with the exception of certain administrative officers, has been almost completely Filipinized.

Evidently the director of education would not have increased and would not contemplate a further increase in the number of Filipino supervisors if such a policy resulted in defective service. And it is also evident that the opinion of the director of education is more authoritative in this case than that of the gentleman from Minnesota, for the director of education has had more time and opportunity to know the facts, while it has been his daily business to acquaint himself with the work of the Filipino teachers.

HIGHER INSTRUCTION OF TO-DAY.

Keeping pace with the marvelous progress in the number and quality of our public schools since American occupation, private schools and colleges have also increased numerically, so that to-day not only the old private schools and the institutions of higher instruction are in existence in the Philippine Islands, but thousands upon thousands of new private schools and scores of colleges for girls and boys and one more university sustained by the government, every one filled almost to its full capacity with students, are to-day being carried on.

Before passing to another subject it is interesting to notice that the most striking feature of Filipino life to-day is the ardent desire for education. I shall quote, because it expresses the consensus of opinion on the subject in the most concrete and beautiful way, a few paragraphs of a speech made by Col. Harbord before the Lake Mohonk conference in 1909. Col. Harbord, who has been for over 10 years a colonel of constabulary stationed in the Philippines, said:

No sojourner in the Philippines can fail to notice the intense desire of all classes of the people for education. It is the wish of which he will be most constantly reminded. Servants, coachmen, laborers, hundreds of them, carry little phrase books of short-language methods and are earnestly striving to learn English. * * * Public money for education is one appropriation never criticized by the vernacular press of Manila. Night and day schools are well attended, and in some of the former local officials, overcoming their fear of ridicule and swallowing their pride, have sat beside their own children as pupils learning English. * * * Certainly the desire for education is one of the moving motives of Filipino life to-day. Parents make the most complete sacrifices to send their children to school, and the pupils themselves endure hunger and privation to secure learning.

PRESENT LITERACY ESTIMATED.

In view of what has been said, Mr. Chairman, I think I can safely predict, without being overoptimistic, that if a new census were to be taken to-day among the Christian population the degree of illiteracy will be found to have fallen to 15 or 20 per cent; or, in other words, the 85 per cent mentioned by the gentleman from Ohio will not represent those who can neither read nor write, but those who can both read and write.

FILIPINO APPRECIATION OF THE BENEFITS OF THE AMERICAN RÉGIME.

Mr. Chairman, I shall not take up more time of the committee in discussing the merits of the school system established in the islands by the United States. The rapidity with which the English language has spread throughout the archipelago and the readiness with which Filipinos have become both able to use that language and able also to teach it stand as an eloquent testimonial not only to the intellectual capacity of the Filipino people but also to the efficiency of that system, as well as to the ability and devotion to duty of American teachers, both men and women, who have done so much and so well by the Filipino youth. God bless them. We shall never be able to repay their labors. An elaborate discussion of that system has been offered by the gentleman from Minnesota [Mr. MILLER], and, with the exception of the statement regarding the Filipino supervising teachers to which I have already referred, I can indorse what he said.

What I do wish to emphasize, Mr. Chairman, because of an incident which occurred the other day, when I and my people came near being accused of being inappreciative of the benefits we had received from the American Government in the islands, is that there is a well-nigh universal appreciation on our part of the services you have rendered to our country. And to convince you that this is not a tardy or a forced confession, I have only to refer to my maiden speech, delivered upon this floor on May 14, 1910, wherein I said:

To those distant islands, Mr. Chairman, I beg to direct the attention of the House, and in so doing I am glad to be able to affirm, first of all, that simultaneously with the American occupation there has been established a more liberal government, and from that day the Filipinos have enjoyed more personal and political liberty than they ever did under the Spanish Crown. [Applause.] These facts are freely acknowledged throughout the length and breadth of the islands, and my countrymen wish me most cordially to assure the House, and through it the people of the United States, that they are grateful, profoundly grateful, for all the benefits that your Government has conferred upon them.

The Philippine Assembly, the body vested with full authority to speak for the people of the islands, has on every occasion

when a great concession has been made by this Government to the Filipino people invariably spoken words of deep-felt gratitude.

It is recorded in the archives of this Government that the first action adopted by the Philippine Assembly created by a Republican Congress, upon its inauguration, was unanimously to pass on October 19, 1907, the following resolution:

Be it resolved by the Philippine Commission and the Philippine Assembly, That on their own behalf and on behalf of the people of the Philippine Islands they convey, and they do hereby convey, to the President of the United States, and through him to the Congress and the people of the United States, their profound sentiment of gratitude and high appreciation of the signal concession made to the people of the islands of participating directly in the making of the laws which shall govern them.

The first act of the Philippine Assembly after Gov. Gen. Harrison delivered to the Filipino people the message of President Wilson reaffirming the statement that the policy of this Government is to grant the Filipinos their independence as soon as the safety and permanent interests of the islands will permit, and promising the appointment of a majority of Filipinos in the upper house of our legislature, was to adopt the following address:

We, the representatives of the Filipino people constituting the Philippine Assembly, solemnly declare that it is evident to us that the Filipino people have the right to be free and independent, so that in advancing alone along the road of progress it will on its own responsibility work out its prosperity and manage its own destinies for all the purposes of life. This was the aspiration of the people when it took up arms against Spain, and the presence of the American flag, first on Manila Bay and then in the interior of the archipelago, did not modify but rather encouraged and strengthened the aspiration, despite all the reverses suffered in war and difficulties encountered in peace. Being called to the ballot box the people again and again ratified this aspiration, and since the inauguration of the Philippine Assembly the national representative body has been acting in accordance with the popular will only; thus, in the midst of the most adverse circumstances, the ideal of the people never wavered and was respectfully and frankly brought before the powers of the sovereign country on every propitious occasion. On the other hand, our faith in the justice of the American people was as great and persistent as our ideal. We have waited in patience, confident that sooner or later all errors and injustices would be redressed. The message of the President of the United States to the Filipino people is eloquent proof that we have not waited in vain. We accept said message with love and gratitude, and consider it a categorical declaration of the purpose of the Nation to recognize the independence of the islands. The immediate step of granting us a majority on the commission places in our hands the instruments of power and responsibility for the establishment by ourselves of a stable Filipino Government. We fully appreciate and are deeply grateful for the confidence reposed in us by the Government of the United States. We look upon the appointment of the Hon. Francis Burton Harrison as Governor General as the unmistakable harbinger of the new era in which we expect the attitude of the people to be one of cooperation, and, finally, we believe happily the experiments of imperialism have come to an end and that colonial exploitation has passed into history. The epoch of mistrust has been closed and the Filipinos, upon having thrown open to them the doors of opportunity, are required to assume the burden of responsibility which it would be inexcusable cowardice on their part to avoid or decline. Owing to this, a few days have sufficed to bring about a good understanding between Americans and Filipinos, which it had been impossible to establish during the 13 years past. We are convinced that every onward step, while relieving the American Government of its responsibilities in the islands, will, as in the past, fully demonstrate the present capacity of the Filipino people to establish a government of its own and guarantee in a permanent manner the safety under such government of the life, property, and liberty of the residents of the islands, national as well as foreign. We do not wish to say by this that there will be no difficulties and embarrassments nor do we even expect that the campaign opened or concealed of the Filipino cause will cease soon, but we feel sure that through a conservative use of the powers intrusted to us the Filipino people will, with God's favor and the help of America, emerge triumphantly from the test, however difficult it may be.

The first act of the Philippine Legislature after the majority of the appointive commission had been made to consist of Filipinos was to pass, at a joint session of the legislature, wherein no American member was present, a resolution which reads as follows:

Whereas upon his arrival on these shores, on the 6th day of October, 1913, the Hon. Francis Burton Harrison, Governor General of the Philippine Islands, was the bearer of an expressive message from the President of the United States, Hon. Woodrow Wilson, to the people of these islands, assuring that as a first step in the new policy said people would be given a majority on the legislative commission; and

Whereas a few days thereafter the said President sent to the Senate of the United States the nominations of four new Filipino members of the commission, retaining, besides, one of the Filipino members in office, so that the majority announced would become effective upon confirmation of the nominations of the new members by said Senate; and

Whereas on October 27, 1913, the august body last mentioned confirmed the nominations of Victorino Mapa, Jayme C. de Veyra, Vicente Ilustre, and Vicente Singson Encarnacion, who, with Rafael Palma, constitute the promised majority of Filipino members on the commission; and

Whereas on this 30th day of October, 1913, when the new members of the Philippine Commission took the oath of office, a decisive step was taken under the present administration toward self-government, and the Filipino people were granted an ostensible power, tending to make it directly responsible for its own destiny: Now, therefore, be it

Resolved by the Philippine Commission and the Philippine Assembly, convened in joint session in the marble hall of the Ayuntamiento, That they express, and hereby do express, their deepest gratitude toward the President and Government of the United States for granting the people of the Philippine Islands a majority on the commission as soon as circumstances permitted, the announcement of the promises being thus followed by immediate action; and the Filipino people, upon assuming on this day its new responsibility, hopes to be able to justify by acts the confidence reposed in it, managing the public affairs through the new legislature in such manner that the results shall be conducive to the maintenance of law and order, the progress and the improvement of the general conditions of these islands, and the safeguarding of all legitimately established interests in the same, be they foreign or native; and be it

Resolved further, That the Chief Executive of the Philippine Islands be, and he hereby is, requested to transmit the text of this resolution by cable to the President of the United States.

Adopted, October 30, 1913.

ARE THE FILIPINOS UNGRATEFUL?

Yet, and in spite of these public acknowledgments, we are misunderstood, we are called ungrateful when we take exception to the idea so earnestly advanced by many that since you have established splendid schools, fine roads, up-to-date sanitation, and a more liberal government than Spain ever did, the United States should not only keep her flag floating for an indefinite period of time, or forever, over the Philippines, but should also retain and continue to exercise direct, absolute, and complete control of our domestic affairs. And when we dare to say—even though only when actually forced to speak our mind—that we believe we can make progress and develop hereafter without American sovereignty, and that perhaps we should have done as well as we have thus far done under the control of the United States had we been left alone after we had established our short-lived Philippine Republic, our words provoke stormy protests.

Mr. Chairman, in connection with this I am constrained specifically to call the attention of the committee to a remark made by the gentleman from Ohio [Mr. FESS] on September 28, the last day that this bill was up, because I wish to put myself correctly on record.

The gentleman from Ohio said:

This is what I wanted to say before I sat down. The Filipino problem is one of education. I am somewhat disturbed at the statements of the Resident Commissioner from the Philippines. He is the only representative of these people now upon the floor, as he remarked to-day. I put the question straight to him, "Do you think that without American occupation the Philippines would be as well off now as they are?" He first did not answer. I pressed it, and then he said, "I do," and gave his reasons. And the membership on the Democratic side of the House applauded that statement, meaning that they believe that the American occupation, with all the loss of treasure and blood and sacrifice, has been useless. Is it possible? Can such an utterance meet with approval on either side of the aisle?

Mr. Chairman, I am very sorry to have uttered anything that could disturb the gentleman from Ohio. Let it be noted, however, that he had placed me in a position which allowed me no option but to say what I did say. The gentleman's own presentation of the incident proves it. "I put the question straight to him," the gentleman says, "Do you think that without American occupation the Philippines would be as well off now as they are?" Then he adds, and I beg the committee to listen to these words attentively: "He first did not answer. I pressed it, and then he said, 'I do,' and gave his reason."

Mr. Chairman, the learned professor from Ohio [Mr. FESS] knows as well as I do that it is at times the part of wisdom to keep silent on certain questions, but when a man must open his mouth it is his duty to himself and to others to say precisely what he thinks. Come what may, we are bound to tell the truth, or what we believe to be the truth. I did not first answer the question of the gentleman because I thought it wiser to keep my own counsel on that subject; but he insisted upon an answer, he pressed me, as he himself has said, when he might have been gracious enough to save me from the embarrassment of saying something against my will, and so to spare himself the displeasure of hearing it. The result was what any sympathetic man must have expected.

Mr. FESS. Will the gentleman yield?

Mr. QUEZON. Mr. Chairman, much as I regret it, I can not yield, for I have not the time. I do not wish to be discourteous——

Mr. FESS. Does the gentleman decline to yield when he refers to what I said?

Mr. QUEZON. Mr. Chairman, I hope the gentleman will understand my position. I can hardly go into a personal controversy with Members of the House during the debate on this bill, for I do not feel as free to express myself as they do. My position is different from that of any other Member, since I am acting here as an advocate while they both advocate their own views and act as judges as well. And how unwise and inadvisable it is for an advocate to quarrel with another advocate who is also the jury and the bench. [Applause on the Democratic side.] If the gentleman is so desirous to discuss the Philippine question with me, he will find me ready to meet him either in a private debate between ourselves or in public.

But I must decline, Mr. Chairman, to engage in personal arguments on this floor while this bill is under your consideration, because I might antagonize not only him with whom I am arguing, but by reason of the esprit du corps which exists in every organization I may also antagonize everyone else. [Applause on the Democratic side.]

Mr. FESS. Will the gentleman yield?

Mr. QUEZON. If I must, I will.

Mr. FESS. Does the gentleman mean that the gentleman can talk to me privately about a matter of which he could not speak here?

Mr. QUEZON. Mr. Chairman, I hope I may be able to make myself understood by the gentleman from Ohio. No; I do not mean that. I mean that I do not propose to be dragged into a personal controversy on this floor while this bill is pending, unless, after these protestations, I am still forced into it. Now, if the gentleman insists, he is welcome to put any question or present any argument he may wish.

Mr. FESS. I would like to ask the gentleman—now after Monday when the question was put to the gentleman and he answered that a little reluctantly, and it is now several days since that occurred—does the gentleman think that the Philippine situation would be in as good a shape if the American occupation had not been there up to this time?

Mr. QUEZON. Mr. Chairman, if the gentleman from Ohio desires a fair answer to his question, I shall have to give him more time so that he may explain to me exactly what he means. If he means to ask whether the Philippines would have been in as good a shape as they are now had not the American Government taken the place of Spain, and had we remained under the Spanish Government, my answer would be a most emphatic negative. Who does not know that under Spanish rule we had to struggle and even to fight to obtain schools and other progressive institutions, while under the rule of the United States such institutions were voluntarily established by the Government? Who does not know that the Spanish Government was centralized and despotic all along the line from the municipalities up to the insular government, while to some extent the American Government is decentralized and representative? I will say to the gentleman, moreover, that I do not think that we should have made the progress we have made under American control or that we should have been given the same government we now have were we under the control of any other foreign Government. For this reason, if we are so unfortunate as to have to be forever subject to some master, we prefer a million times the United States in that relation. [Applause on the Democratic side.] But if the gentleman asks me whether, in my opinion, had we been left with the government we had established, and had we been free from outside aggression we should have advanced under that government as much as we have actually advanced under the American régime, and whether that government would have been as liberal and representative at least as our present government, I say, yes; certainly. [Applause on the Democratic side.] And if the gentleman wishes to know why I so believe, I shall tell him presently.

Mr. FESS. Will the gentleman yield?

Mr. QUEZON. I will in a minute. [Cries of "No!" on the Democratic side.] I will yield, Mr. Chairman; but before I yield again I wish to give the committee the reasons for my assertion:

THE EPHEMERAL PHILIPPINE REPUBLIC.

In the first place, the comparison of the government we had established with the present government of the islands is decidedly in favor of the former in so far as the representative character of each government is concerned.

The Filipino government which had been established had a constitution pronounced by that great statesman from Massachusetts, Senator Hoar, to be as good, as liberal, as progressive—framed as it was after the Constitution of the United States—as any in the world. I know that there has been constant—I had almost said intentional—misrepresentation of this Filipino government, its objects, and its achievements since the day when its upholders and framers were scattered by the American forces; but these misrepresentations can never destroy the truth of a historical fact.

Prof. Jorge Bocobo, of the Philippine University, in his recent historical monograph on the life of Felipe G. Calderon, affords the following accurate and able review of the facts regarding the first Republic of the Eastern Hemisphere:

On September 15, 1898, the Philippine Congress met at Barasoain, Province of Bulacan, composed of the best men that the island of Luzon could give. There were over 90 members, of whom about 40 were lawyers, 16 physicians, 5 pharmacists, 2 engineers, and 1 priest. The rest were merchants and farmers. Many of the representatives were graduates of European universities. Pedro A. Paterno, a lawyer, educated in Spain, and a distinguished publicist, was the president of the assembly. On September 17, Paterno delivered a thrilling speech in the name of human liberty. Among other things he said:

"Filipinos, to-day begins a new era; we are beholding the political resurrection of our people. Amidst the glooms of yesterday, amidst the graves of our heroes and martyrs, amidst the ruins of the past, there arises and stands the refulgent genius of liberty, embracing all the islands and uniting the Filipinos with bonds of holy brotherhood.

"Liberty is the ideal purpose of our existence on earth, the foundation of life and progress.

"Our past, the era of cruelty, of deceit, of slavery, has ended. We shall renew the history of the Philippines. * * *

"Filipinos, proceed! Let our steps be unflinching and ever forward; let them be steps of justice, of love, of harmony, and of charity; let us win the sympathy of the whole world with generous and humanitarian deeds; and let us write in the presence of the Lord, of the Supreme Being, the oath of our independence."

The rules of the Spanish Congress were temporarily adopted. Committees were immediately created, one of which was composed of 18 members, most of whom were able lawyers. Calderon likewise formed a part of the committee; he was requested to draft the constitution. The committee reported the proposed constitution, through Calderon, on October 8, 1898. The discussion of its articles in the congress began on October 26 and ended November 29, when it was approved and immediately transmitted to Aguinaldo for promulgation, which, however, was not done until December 23 on account of certain amendments recommended by the executive. The constitution was discussed article by article in 17 meetings, Calderon strongly defending his work from the attacks made. Among those who were prominent in the debates were Tomas G. del Rosario, Arcadio del Rosario, Joaquin Gonzales, Ignacio Villamor, Ambrosio Rianzares Bautista, Alberta Barretto, Aguedo Velarde, and Pablo Tecson Roque.

The committee reported:

"The work which the committee has the honor to submit to the consideration of the congress is one of real selection, for the execution of which this committee has borne in mind not only the French constitution, which has been made the basis, but also those of Belgium, Mexico, Brazil, Nicaragua, Costa Rica, and Guatemala, because these nations are believed to be the ones most similar to our people."

The first representative to take the floor was Arcadio del Rosario, who contended that the work of the committee should have been molded by the Constitution of the American Nation, which, "being the champion of liberty, is the most democratic nation, and with which the Filipino people are united by strong ties of friendship and sympathy." Calderon replied that the gratitude which the Filipino people owed the American Nation did not oblige them to adopt the institutions of the latter, taking into consideration the differences in their history, usages, and customs, and that the country was most akin, politically, to the South American Republics and other Latin nations. The latter opinion prevailed in the convention, which fact does not surprise those who know the forces that lie at the bottom of Filipino institutions, and upon which those who would require as a condition precedent to Philippine independence a form of government patterned after the American Republic should seriously reflect.

The constitution established a democratic republic, which was parliamentary or responsible, unitary, and unicameral. The principle of separation of powers was recognized, although the legislative branch was supreme.

The preamble was formulated in the following terms:

"We, the representatives of the Filipino people, legally assembled to establish justice, provide for the common defense, promote the general welfare and secure the blessings of liberty, imploring the aid of the Supreme Legislator of the Universe in order to attain these ends, have voted upon, decreed, and sanctioned the following political constitution."

This constitution was of a temporary nature, as the people had not yet elected delegates to a constitutional convention.

POLITICAL STATUS.

Title 1, headed "Of the Republic," contained the following declarations:

"The political association of all Filipinos constitutes a nation, whose State shall be known as Philippine Republic.

"The Philippine Republic is free and independent.

"Sovereignty resides exclusively in the people."

These fundamental statements defining the status of the Republic were expedient and timely, for the reason that the Malolos government was just coming into light. However, during the debate the objection was made that the second declaration was premature. Another point raised was that the proposed constitution did not determine the territorial limits of the Republic.

FORM OF GOVERNMENT.

Title 2, headed "Of the government" had but one article, as follows:

"The government of the Republic is popular, representative, alternative, and responsible, and is exercised by three distinct powers, which are denominated legislative, executive, and judicial.

"Two or more of these powers shall never be united in one person or corporation, nor shall the legislative power be vested in one individual."

The committee, referring to this important declaration, reported:

"The committee needs but a little effort to demonstrate the need of faithfully carrying out the doctrine of Montesquieu. * * * Hence the establishment, absolutely independent from the executive and judicial powers, of the national assembly, synthesis of popular sovereignty and genuine representative of the highest prerogative of the people, which is to make laws."

The foregoing must be read in connection with what Calderon said several years afterwards, that "the Congress of the Republic was the supreme power in the whole nation." It is clear, therefore—and a reading of the constitution will show it—that the English and French idea of making the legislature sovereign took hold of the Philippine convention. What causes led to the adoption of such principle? The revolution against Spain created a class of leaders who, on account of the troublous times, assumed ample powers. This was to a certain extent necessary for the time being, but the representatives saw the extreme peril involved by such state of affairs if continued indefinitely, so they curtailed the power of the executive. It must not be understood, however, that they were ever moved by the same reckless spirit which prevailed in the constituent assembly during the first years of the French Revolution. Nor is it to be supposed that Mabini, who was the adviser of Aguinaldo, ever desired to make the latter a dictator.

Neither the article under consideration nor any other provision stated whether the government was federal or unitary. But a simple glance

at the constitution reveals the fact that the latter system was sanctioned. This feature of the constitution did not excite much controversy, as the centuries of Spanish centralization had ingrained in the habits of the people the practices of a unitary government.

RELIGION.

Title 3 deals with religion. Calderon proposed to follow the examples of Spain, Argentina, Bolivia, Peru, Colombia, Paraguay, Uruguay, Costa Rica, and Santo Domingo by the establishment of a State religion, the Roman Catholic. However, he was in favor of allowing the private exercise of any other religion, provided it was not contrary to morals and good customs and did not subvert the security of the nation. His idea was strongly opposed in the house, and this produced the most learned and eloquent debate during the life of that body. The opposition was led by Thomas G. del Rosario. The debate lasted four days, the speakers, especially Calderon and del Rosario, exhausting the arguments on both sides and showing such profound knowledge of history and the science of government that any legislature in the world would be proud to have on its record a similar discussion. The first vote was a tie—25 to 25—which indicates the irresistible logic of both sides. The president declined to cast his deciding vote, so another one was taken. At the second voting Representative Pablo Tecson Roque, who did not vote at the first one, voted in favor of the opposition. Title 3, therefore, read thus:

"The State recognizes the liberty and equality of all religious worships, as well as the separation of the church and state."

CIVIL AND POLITICAL RIGHTS.

Title 4 was headed thus: "Of Filipinos and their national and individual rights." This paragraph had 27 articles, in which the privileges and immunities of freemen were clearly and emphatically formulated. Aliens were likewise protected, as the new government was intended to win the support of the enlightened opinion of the world. The said rights were freedom from false and arbitrary imprisonment; writ of habeas corpus, security of private property; the prohibition of criminal convictions unless by a competent court and according to the law in force at the time of the commission of the crime; inviolability of private dwelling; liberty to choose one's residence and exemption of Filipinos from deportation; secrecy of correspondence; freedom of the press, right of petition, and to form associations not contrary to public morals; freedom of instruction, primary education being compulsory; right of aliens to engage in their profession or industrial pursuit; prohibition of special courts, except military and naval courts having jurisdiction over crimes against discipline; illegality of institutions permanently entailing property and prohibition of titles of nobility; and invalidity of taxes not imposed by the assembly or other competent authority and in accordance with the form prescribed by law. There were three articles of general character:

"No Filipino who may be in the full enjoyment of his civil and political rights shall be hindered in the free exercise thereof.

"Crimes committed on the occasion of the exercise of the rights stated in this title shall be punished by the courts according to the law of the land.

"The enumeration of the rights stated in this title does not imply the prohibition of others not especially consecrated."

Some of these articles had for their source the Spanish constitution of June 30, 1876. A few were taken from the Belgian constitution of February 30, 1831, such as article 29, which ordered that no previous authorization was necessary to prosecute public officials. The enumeration, however, was broader and more effective than that of the constitutions of Spain and Belgium. It compared favorably with the declaration of rights contained in the constitution of any country. This was because the representatives of the Filipino people cherished the idea of constructing a government founded upon the imperishable truths secured by the human race from kingcraft and upon those indestructible principles which constitute the mainstay of modern civilization.

However, it is doubted by many whether the Philippine Republic could have protected these constitutional liberties. It must be admitted, however, that the Filipino people, in consecrating these salutary principles at the first opportunity they had, without even waiting for the result of the diplomatic negotiations at Paris, and at the very time when militarism was at the height of its influence in the Philippine Republic, have shown that there is in the woof and warp of their social fabric a strong, firm attachment to liberty and law, a force which, had the Republic been recognized, would have summoned the energies of the nation in the upbuilding of a stable and progressive state. No one denies the possibility of disorder in a country with a newly organized government, but the question as to whether social convulsions are apt to become chronic depends largely, if not exclusively, upon the temper and habits of the people. Now, the Filipino people are peaceful and slow to condemn the enormity of abuses. They do not have the impetuousness of character and the revolutionary spirit of Spaniards and Spanish-Americans. Their respect for the constituted authorities has been observed by American officials and demonstrated by the undeniable fact that the Spanish Government, in spite of its intolerable oppression, easily maintained order for centuries with a small number of soldiers. If we take into account this trait of the Filipinos, it is reasonable to presume that the constitutional safeguards declared in the Malolos document would have been supported and upheld by a strong and steady government. But it is often said that the "politicians" would have produced anarchy and chaos and that such constitutional guaranties would have been a contemptible mockery. The experience of the Spanish-American republics is pointed out to strengthen the contention. But a mere presidential election can plunge most of the countries south of the United States into a civil war and thus force a suspension of individual rights, because the leaders take advantage of the indomitable nature and warlike tendencies of the people. In the Philippines only a question of life and death to the country could produce a serious commotion, because the Filipinos are law-abiding and self-restraint is a dominant feature of their national character.

The remaining titles, except the last two, treated of the structure of the Philippine republic. Titles 5 and 6 dealt with the legislative power; titles 7 to 9, with the executive department; title 10, with the judiciary; and title 11, with provincial and municipal governments. Title 12 was about finance, title 13 provided for the amendment of the constitution, and title 14 referred to constitutional oath and other matters. There were also some temporary provisions.

THE LEGISLATURE.

The legislature was unicameral, the examples of Greece, Costa Rica, Nicaragua, Salvador, Guatemala, Honduras, and Santo Domingo having been followed. This system has been so generally rejected that an explanation of the reasons for its adoption in the islands would seem not to be out of place. There were three grounds upon which Calderon based his proposal: (1) That in the Philippines there were no conflicting interests, as in Europe and the United States; (2) that the country was in a formative period, and the existence of two chambers was liable to clog and embarrass the affairs of the state; and (3) that there might not have been enough men for both chambers. The Malolos congress did not devote much attention to this important question. It was simply taken for granted that there was no need of an upper house, which, it was feared, might have become the bulwark of special privileges. This action of the assembly demonstrated its overruling spirit, which was to banish from these shores all institutions which had a proneness to crush democratic polity. The writer is not unmindful of the fact that in most cases the purpose of an upper chamber is merely to secure calm and wise legislation, and that such body does not necessarily undermine popular government, but he is merely stating the primal thought of the Filipino representatives.

Another phase of the legislature which is strange to Americans but not to Europeans was its supremacy over the other powers. In the first place the parliamentary or responsible system, as opposed to the presidential or nonresponsible type, was preferred. Then a permanent committee of the legislature was created.

PARLIAMENTARY SYSTEM.

The Malolos constitution worked out the European system, as follows: The legislature elected the president of the republic. The latter, as well as the representatives, initiated legislative measures. He could dissolve the legislature, with the consent, however, of the assembly or of the permanent committee, in pursuance of articles 36 and 70. The latter article was taken from article 5 of the French law of February 25, 1875, with this difference, that in France the Senate gives the necessary consent to the dissolution of the National Assembly. Just how the Malolos assembly could have been dissolved in case of its refusal to adjourn did not appear in the constitution. Mabini proposed to eliminate said consent, but the assembly rejected his idea. The secretaries of the government were "collectively responsible to the assembly for the general policy of the government and individually for their own personal acts," which provision was a literal copy of article 6 of the French law of February 25, 1875; they could speak in congress. The house could pass a vote of censure, and every member thereof had a right to address an interpellation to the government.

Let us see whether the cabinet or parliamentary system was better for the Filipinos than the presidential system. This is an intricate problem, but two statements may be ventured: (1) That the parliamentary system was more expedient, because it was the one known to the Filipinos; and (2) that a nonresponsible government, the capital drawback of which is, according to Mr. Bryce, its "want of unity," would not have responded to the stern exigencies of the period. The first Philippine Commission criticized the system adopted by the Filipinos, saying:

"They (the Filipinos) had never dreamed of the simple American plan of giving the chief executive large powers and of holding him strictly accountable for the use made of them, his cabinet being merely an advisory body, and they had not risen to the great and fruitful conception of the complete separation and mutual independence of the executive, judicial, and legislative departments of government. It will take time and require visible demonstration of the American method of a strong executive who shall be completely independent of the legislature."

The above opinion is, of course, based upon the assumption that the American arrangement is better than the European plan. This question is one of the most delicate problems of modern political science, and the commission's view, therefore, merely states one side of the controversy. Had the Philippine congress given Aguinaldo a strong hand, the advocates of the theory of our supposed incapacity would now undoubtedly make a weighty argument of this fact to show that the republic was a sham and that political absolutism was the all-absorbing principle.

THE PERMANENT COMMITTEE.

The permanent committee of the legislature was an institution adopted from Mexico, Chile, Paraguay, Uruguay, Haiti, Guatemala, and Costa Rica, especially from the last two countries. It was to perform its duties during the recess of congress. Its powers were to decide whether impeachment proceedings could be instituted; to call a special session of the assembly, with the concurrence of the president; to dispatch pending business, so that the same could be discussed by congress; to call a special session of the legislature; and to take the place of the assembly in all its powers, except the making of laws.

NATURE OF A REPRESENTATIVE'S DUTY.

Another matter which deserves special attention in connection with the legislature is the duty of each member, as defined in the following provision:

"The members of the assembly shall represent the whole nation and not merely the electors choosing them. No representative shall receive any binding instruction from the electors."

This principle is seldom enunciated in constitutions. Yet it bespeaks the admirable foresight and broad statesmanship of the authors of the Philippine constitution. Universal experience vouches for the soundness of such doctrine. As President Wilson said:

"If the representative be a mere delegate, local interests must clash and contend in legislation to the destruction of all unity and consistency in policy; if however, the representative be not a mere delegate, but a fully empowered member of the central government, coherence, consistency, and power may be given to all national movements of self-direction."

OTHER POWERS OF THE ASSEMBLY.

Little remains to be said regarding the legislative department. The constitution did not enumerate the general powers of the congress, as written constitutions generally do. The usual parliamentary privileges were guaranteed. The assembly determined the rules of its proceedings, judged the elections and qualifications of its members and approved their resignations, and elected its officers. It tried all impeachments. No representative could accept any pension, employment, or commission with emolument, except the secretaryships of the executive department or other offices enumerated by special laws. The representatives held office for four years.

THE EXECUTIVE DEPARTMENT.

Titles 7 to 9, as above stated, treated of the executive department. The executive power was vested in a president of the republic, who exercised such power through his secretaries. In addition to what has already been said in connection with the cabinet government, the following provisions may be noticed: The president appointed to all civil and military positions, designated the secretaries, conducted diplomatic and commercial relations with other powers, looked after the

prompt and full administration of justice, granted pardons, presided over state functions, and received envoys and ambassadors of foreign powers accredited to him. He needed the authority of a special law to alienate, cede, or exchange any part of Philippine territory; to incorporate any other territory with that of the Philippine Islands; to admit foreign troops into said territory; to ratify treaties of offensive and defensive alliance, special treaties of commerce, those stipulating the payment of subsidies to any foreign power, and all treaties which might have been binding upon Filipinos individually, provided that in no case could secret articles of a treaty annul public ones; to grant general amnesties and pardons and to coin money. He commanded the army and the navy, declared war and made and ratified peace, with the previous consent of the assembly. He promulgated the laws within 20 days; laws could be passed over his veto by a two-thirds vote. His election was for four years, and he could be reelected. He was responsible only in case of high treason. He had seven secretaries—for foreign affairs, of interior, finance, war and navy, public instruction, communications and public works, and agriculture, industry, and commerce. All his orders were to be signed by the proper secretary, without which requisite such orders were not to be obeyed.

THE JUDICIAL DEPARTMENT.

The judiciary was regulated by title 10. The chief justice and the attorney general were appointed by the national assembly in concurrence with the president and his secretaries. Every citizen had a right to institute criminal action against all members of the judiciary for crimes committed in the discharge of their duties. Although the constitution was silent on the subject, yet it is safe to presume that the courts did not have power to decide the constitutionality of laws, because the legislature was supreme, as already pointed out.

LOCAL GOVERNMENT.

Title 11 declared the principles upon which provincial and municipal governments were based. Local autonomy was protected as long as the Provinces and municipalities did not override the limits of their powers.

FINANCE.

The budget and taxation were dealt with in title 12. The executive department was to prepare the budget every year. No payment could be made but in accordance with an appropriation or other special law in the form and under the responsibility determined by law, which provision appears to be better and more explicit and efficacious than Article I, section 9, paragraph 7, United States Constitution, and section 5 of the Philippine bill; it is because Calderon was an economist, and he saw the importance of fixing the responsibility before law and public opinion for reckless management of the people's money. A special law was necessary for the disposal of property of the state and for the borrowing of money on the credit of the nation. The public debt was under the special protection of the nation. No debt was to be contracted unless the means with which to pay the same were approved at the same time, which shows that the men who organized the Philippine republic wanted to avoid the dangers to which some South American Republics are exposed when they fail to pay their debts to European nations.

AMENDMENT OF THE CONSTITUTION.

Title 13 was about the amendment of the constitution by a constitutional convention; amendments were to be proposed by the assembly or the president. Lastly, there were some temporary provisions.

ESTIMATE OF THE PHILIPPINE REPUBLIC BY AN AMERICAN OBSERVER.

It is true that the government provided for by this constitution had hardly come into existence before it was destroyed; but this was not due to the machinations of any designing Filipino who sought to enslave our people, but to the exigencies of war. Indeed, almost upon the very inauguration of the Philippine Republic the hostilities between the American and Filipino forces were begun, and therefore martial law was unavoidably proclaimed.

Short as was the life of this government, however, and struggling, as it had to, for its very existence, first with Spain and later with the United States, it lived long enough to show that if it had been permitted to grow and maintain its place among the independent nations of the world it would have contributed its due share to the advancement of mankind. It is worth while to recall once more what two officials of the United States Navy reported to Admiral Dewey with regard to that government. I therefore quote a part of that report:

It has been my privilege to have been intimately associated with the Filipino people for a short time at a most interesting period of their history. With the permission of Admiral Dewey I spent the greater part of the months of October and November of 1898, in company with Paymaster W. B. Wilcox, United States Navy, in the interior of the northern part of the island of Luzon. It will be remembered that at that date the United States had not yet announced its policy in regard to the Philippines. The terms of the treaty with Spain were being negotiated by our commissioners at Paris, and the fate of the islands hung in the balance. In the meantime, the native population, taking matters into their own hands, had declared their independence from all foreign jurisdiction and had set up a provisional government, with Aguinaldo at its head. * * * Although this government has never been recognized and in all probability will go out of existence without recognition, yet it can not be denied that, in a region occupied by many millions of inhabitants, for nearly six months it stood alone between anarchy and order. The military forces of the United States held control only in Manila, with its environs, and in Cavite, and had no authority to proceed further, while in the vast remaining districts the representatives of the only other recognized power on the field were prisoners in the hands of their despised subjects. It was the opinion at Manila during this anomalous period in our Philippine relations, and possibly in the United States as well, that the state of affairs must breed something akin to anarchy. * * * I can state unreservedly, however, that Mr. Wilcox and I found the existing conditions to be much at variance with this opinion. During our absence from Manila we traveled more than 600 miles in a very comprehensive circuit through the northern part of the island of Luzon, traversing a characteristic and important district. In this way we visited seven Provinces, of which some were under immediate control of the central government at Malolos, while others were remotely situated, separated from each other and from the seat of government by natural divisions of land, and accessible only by lengthy and arduous travel. As a tribute to the efficiency of Aguinaldo's government and to the law-abiding character of his subjects, I offer the fact that Mr. Wilcox and I pursued our journey throughout in perfect security and returned to Manila with only the most pleasing recollections of the quiet and orderly life which we found the natives to be leading under the new régime.

PROGRESSIVE TENDENCIES OF THE PHILIPPINE REPUBLIC.

Mr. Chairman, among the things done by this ephemeral government, most significant for the future because they clearly indicate the tendencies of the governmental forces at work and what they would have done for the Filipino people had they endured, are the establishment of free and compulsory public education and provision for the creation of a government university. Does history record another instance of a newborn government which, during the few months of its existence and while it was still carrying on war, proceeded to take steps for the spread and promotion of public instruction among the masses? This fact alone fully justifies my presumption that the Filipino government would have done as well as the American Government, since it had been shown to have at least the same progressive tendencies, if not more actual interest, in the welfare of the people. And since the funds spent by the American Government now are paid by the Filipinos, who would have also supported the Filipino government, where would the difference have been? Surely no sane person would suggest that the results attained would have been different, because the same causes would have given different results, inasmuch as in one case the government is foreign and in another is native. Would any man pretend that in the case of education, for instance, Filipino students would have not shown the same capacity to learn under one government as under the other, considering that their intellectual ability is not due to any government?

We can cite Japan as affording an example of, or analogy to, the probable course of development in the Philippines had the islands been free from a foreign yoke. Japan, without falling under the rule of another nation, nevertheless made marvelous progress within a short time. If it be remembered that when Japan began her development she was much less familiar with occidental civilization than were we when we sought to organize our own government, it would seem apparent that we should have made at least the same advance. When Japan decided that in order to live she must adopt modern and occidental methods, she knew absolutely nothing of their technique, and yet how brief a time did she require to adopt those methods and even to surpass some of the older powers? What was it that Japan did? She sent her sons throughout the world to acquire learning, occidental instruction; she brought to her land men who could teach every branch of human knowledge and who could help to organize a modern government. Would anyone pretend to say that because of this foreign help Japan's was not a process of self-development and progress? Why could we not have accomplished, by using the same means, what Japan has accomplished? Who can say that Japan would have made as much progress had she fallen under a foreign yoke?

PARAMOUNT ADVANTAGE OF SELF-GOVERNMENT.

Indeed, I question most seriously the statement that any nation can successfully direct the course of development that must be followed by another. The education of the individual is most successful when it affords the best vehicle for self-expression; the education of the nation or the race proceeds most naturally as a matter of internal evolution. Mistakes may be made, and when made they bring their own penalty. Now as always it is true that experience is the best teacher, and that only by endeavoring, aspiring, and striving can a government attain to practical efficiency. That has been conspicuously the history of the Anglo-Saxon race. Magna Charta was not bestowed by some friendly conqueror, but was the product of long years of struggle and effort. American constitutional government was not the gift of Howe, Cornwallis, or the King of England. Is there not a way of national progress from within, as compared with that stimulated from without, that gentlemen seem sometimes to overlook? Are we mindful of the fact that the one priceless advantage of self-development is that it proceeds along the proper lines, in accord with the tendencies, peculiarities, and special abilities of the people; in other words, that it is always a natural growth, while progress imposed from without may result in an unnatural type of evolution?

Mr. Chairman, without being overcritical, let me speak of this matter frankly. It is a fact that your work in the Philippines has not been as free from errors as the former officials of the Philippine Government in their self-laudation would have us believe. There have been mistakes—mistakes that were very expensive to the Filipino taxpayers; there have been injustices and wrongs. Some things have been overdone and other things

have been neglected. I do not, however, on that account underrate the value of your work as a whole, and I gladly reiterate that considering all the circumstances you have done marvels. No government of men is free from shortcomings. I only wish to note the fact that some of the mistakes which your representatives have made in the Philippines, because of their unfamiliarity with the people and the country, would not have been made by us.

Mr. FESS. Now are you ready to yield?

Mr. QUEZON. Yes; I am ready. [Cries of "No!" "Go on!"] Mr. Chairman, how much time have I left?

The CHAIRMAN. The gentleman has five minutes remaining.

Mr. OGLESBY. Mr. Chairman, I understand from the chairman of the committee that he has not any more time to yield to this gentleman, and I ask in all fairness that he ought not to be interrupted.

The CHAIRMAN. The Chair will say that that is entirely in the hands of the gentleman himself.

Mr. HELM. Will the gentleman yield to me a moment?

Mr. QUEZON. Yes.

Mr. HELM. I want to make a request. I want to ask, in view of the fact that the gentleman from the Philippines, representing as he does a nation and is here speaking in their behalf, the only man who has a voice, that he be allowed to proceed, in view of the fact that the gentleman from Ohio [Mr. FESS] has consumed his time, until he has finished his remarks, the time of the interruptions not to be taken out of the general debate.

The CHAIRMAN. The Chair will say that matter is entirely in the control of the gentleman from the Philippines. If he does not desire to be interrupted, he will be protected in that.

Mr. HELM. Mr. Chairman, I ask unanimous consent that the gentleman from the Philippines be permitted to conclude his remarks, not to be taken out of the time that is allotted to general debate.

The CHAIRMAN. The gentleman——

Mr. MANN. Mr. Chairman, I suggest that the chairman can not submit that request to the committee. The House has fixed the time for general debate, and the committee has no power to extend it.

Mr. QUEZON. My five minutes are flying, Mr. Chairman, and I want to say another word. I hope this conversation will not be taken out of my time.

The CHAIRMAN. It will not be taken out of the time of the gentleman from the Philippines.

Mr. QUEZON. I will ask the gentleman from Iowa [Mr. TOWNER] if he can give me five minutes.

Mr. TOWNER. I will yield five minutes of my time to the gentleman.

Mr. HENRY. Mr. Chairman, I would like to ask this question: Would it be in order now for the committee to rise and the House extend the time of the gentleman?

The CHAIRMAN. It is in order at any time for the committee to rise.

Mr. HENRY. Then, Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Texas [Mr. HENRY] moves that the committee do now rise.

Mr. SHERLEY. Mr. Chairman, I make the point that the gentleman from Texas has not the floor for such a motion as that.

The CHAIRMAN. The Chair thinks that is true. The time belongs to the gentleman from the Philippines.

Mr. HENRY. If the gentleman will yield for that purpose, I will move that the committee do now rise.

The CHAIRMAN. Does the gentleman from the Philippines yield?

Mr. HENRY. I understood he did.

Mr. QUEZON. Mr. Chairman, I appreciate more than I can say the kindness of the gentleman from Texas and the courtesy of the Members who desire to extend my time, but I am so much interested in the speedy consideration of this bill that I can not agree to the extension of general debate even for my own benefit. Therefore I must decline to yield to the distinguished chairman of the Rules Committee, my beloved friend Mr. HENRY, whom I thank with all my heart just as if he had secured more time for me.

FREEDOM AGAINST WEALTH AND PROSPERITY.

Now, Mr. Chairman, let me return to the discussion at the point where I was compelled by interruptions to break off. In what I have said I tried to show that there was no blasphemy in my asserting that we could have made the same intellectual and material progress under our own rule that we have made under yours. But I will say that were I to admit that what you have done along those lines would have never been equaled or even approached by our own efforts, this fact could never justify before the court of justice, and surely not in our estimation, the continuation or permanency of American control over us. I might admit without mental reservation that in 15 years of American occupation we have been given, at our own cost, more and better schools, solidly built roads, more sanitary and more beautiful cities, and so forth; and yet I should say, and my people would say, that all the schools in the world, combined with the most comfortable railroads, the most excellent sanitation, the most artistic buildings, and everything else that makes for enlightenment and comfort is no compensation for the loss of freedom. "What shall it profit a man if he gain the whole world and lose his own soul?" [Applause.]

Mr. Chairman, the American people have been too long beguiled by speeches telling of the wonderful material and educational progress that is said to have been made under your guidance in the islands. Too many such assurances have been put forward within years past, their purpose being apparently to conceal the real and great issue involved in the Philippine problem. I repeat, and I mean every word, that intellectual advancement, public improvements, and material prosperity alone will not make the Filipinos happy and contented under your rule nor induce them to concede the necessity of that rule. If any man thinks that he can purchase the Filipino people with material prosperity and intellectual advancement, and so make them forget their rights as men and as a nation, he is utterly mistaken. All these beneficent things to meet our wishes must be accompanied by a definite promise that we may look forward to a future time when an absolutely independent government will be granted us, and must in the meantime be coupled with the immediate establishment of a government which shall afford us power to determine how the present development of the country shall be carried on. Ah, Mr. Chairman, if to our misfortune we must be forever destined to be ruled by a foreign power, better would it be to leave us in misery and in ignorance! The demands of starving stomachs may prevent our minds from realizing the burden of slavery, while our ignorance would prevent us from knowing what freedom means, and, therefore, from desiring to attain it. Under these circumstances we should have less comfort in life, but we should be less miserable. We should at least have that peace of mind which would give us some happiness. Can not you, Mr. Chairman, sympathize with us? Ask the bird if it prefers a golden cage to the air and the sunshine; or ask Patrick Henry to explain his choice between liberty and life. [Applause.]

Mr. Chairman, it should be easy for you to understand how we feel. Forget for a moment that you are a citizen of the greatest and most powerful Commonwealth upon the face of this earth. Close your eyes to the present and, heeding the testimony of the past, go back to those days, fortunately for you long since gone, when instead of possessing a country extending from the Dominion of Canada to the Rio Grande and from the Atlantic to the Pacific you were confined to the region east of the Mississippi River, and when, instead of 100,000,000, you were but 3,000,000 souls. Remember how your forefathers felt when they were as we are now struggling for freedom. And, finally, bear in mind that the love for liberty in human hearts has not decreased, but, on the contrary, has grown as human civilization has advanced. Sir, you who at one time were under foreign rule and who were to be kept in that condition of subjection on the ground that you could do nothing for yourselves, that you were too ignorant to establish any suitable government, or too unpatriotic to be permitted to take care of your own country, you can sympathize with us. You can not blame us if our hearts bleed when we are told that the United States Government must forever remain in the Philippines because we are so incapable or so unpatriotic as not to be intrusted with our own affairs. So long as these words sound in Filipino ears we should not be men were we complaisantly and calmly to assent to permanent American control in the Philippines. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. JONES. Mr. Chairman, one gentleman to whom I had promised 10 minutes has generously said that he desired it to go to the gentleman from the Philippines. I yield it to him.

The CHAIRMAN. The gentleman is recognized for 10 minutes more.

Mr. QUEZON. Mr. Chairman, I thank the gentleman from Virginia [Mr. JONES] and the other gentleman who was kind enough to renounce his time in my favor. If I can proceed without any more interruptions I hope to be able to devote these 10 minutes to the consideration of the bill itself, though without going into details, but merely pointing out its most salient features.

TWO PRIME FEATURES OF THE BILL.

This bill is composed of a preamble and of legislative provisions. The preamble states the object of the bill, which is to

give the people of the Philippine Islands ample opportunity to demonstrate to the world their capacity for self-government, so that, after such a demonstration shall have been made, they may be granted absolute and complete independence. The preamble recites that it was never the purpose of the American people to make the War with Spain an occasion for territorial aggrandizement or commercial expansion, and that it has always been the intent of the American people to recognize the independence of the Philippines as soon as a stable government shall have been established therein. The legislative provisions of the bill offer the Filipino people, as the preamble indicates, every opportunity to demonstrate their capacity for self-government by placing in their hands general legislative powers, with only such limitations as will enable the Government of the United States to prevent any possible misuse of those powers.

MAIN CHANGES IN THE PRESENT ORGANIC ACT.

Mr. Chairman, the substantial changes which the legislative provisions of this bill propose to make in the organic law of the Philippine Islands now in force are two in number, as follows: First, the increase of the powers now vested in the Philippine Government; and, second, the substitution for the present system of government, mainly responsible to the President of the United States, of a government which shall be responsible to the Filipino people. The first change is brought about by conferring upon the Philippine Government general legislative powers and by specifically authorizing it to enact land, timber, mining, coinage, and tariff laws with the approval of the President of the United States. The second change is secured by providing that both branches of the legislature shall be elected by the Filipino people and that the appointment of Government officers shall be subject to confirmation by the Senate.

NECESSITY OF INCREASING THE POWERS OF THE PHILIPPINE GOVERNMENT.

That the powers of the Philippine Government should be enlarged, as proposed in this bill, should be a foregone conclusion to every student of political science. It should be done as a matter of principle, because, if the Philippines are not to become an integral part of the American Nation, like the States of the Union, but, on the contrary, they are to be kept a distinct and separate nation, as they really are, their government should have now, even before it is declared an independent commonwealth, all the legislative powers that it needs to promote the growth of the country upon its own national lines.

From the standpoint of expediency the necessity of vesting the Philippine Government with these powers becomes acute. Indeed the whole experience of the world shows that legislative powers vested in a body thousands of miles away from the people and not responsible to them do more harm than good. This is because under these conditions such powers are seldom exercised, and when they are they are usually employed in the wrong way. The utter impossibility of arousing interest on the part of the legislature in the affairs of a people so far removed and the difficulties which prohibit such a legislature from supplying itself with the information to legislate wisely inevitably lead to this result.

But it is not enough, Mr. Chairman, that governmental powers be vested in some body that is on the ground; they must be granted to the Filipino people themselves, first, because self-government is the birthright of every people regardless how that right is exercised; and, second, because the Filipino people, as far as they have had the opportunity, have shown that they possess the capacity to govern themselves.

EVIDENCES OF FILIPINO CAPACITY FOR SELF-GOVERNMENT.

Mr. Chairman, the Filipino people have sufficiently demonstrated that they can safely be intrusted with the powers granted in this bill. I should be losing precious time were I to tell the committee that since the early days of the American régime both the municipalities and the Provinces have been successfully governed by Filipinos elected by the people. This is a fact admitted even by those most opposed to Filipino self-government. It is also unnecessary for me to say that the Filipinos occupying appointive positions in the insular government are fully justifying themselves, as is demonstrated by the fact that not only are they kept in office but that their number has been continuously increasing. Had these appointments been failures they would have been recalled and no further appointments of a like kind would have been made. Filipinos so appointed hold places on the supreme bench and in the courts of record. Every justice of the peace, the secretary of finance and justice, five members of the Philippine Commission, the attorney general, the solicitor general, the provincial fiscals (prosecuting attorneys), some chiefs and assistant chiefs of bureaus, and the majority of the civil-service employees are Filipinos.

As to the legislative capacity of the Filipinos, the work of the Philippine Assembly since 1907 and the achievements of the Philippine Legislature since, and the appointment of a majority of Filipinos on the commission, which became practically a Filipino body, furnish conclusive testimony to the intelligence, culture, and devotion to duty of our Filipino legislators. It will not be amiss, Mr. Chairman, to cite to this committee the testimony of Americans prominent in the councils of each of the three parties in the United States.

Ex-President Taft, who is considered by many as one of the Americans best informed on things Philippine, said in his special report on the Philippines as Secretary of War:

> The Philippine Assembly has shown a most earnest desire, and its leaders have expressed with the utmost emphasis their intention to labor for the material prosperity of the Philippines. * * * In other words, thus far the assembly has not manifested in any way that obstructive character which those who have prophesied its failure expected to see.

This testimony is supported by ex-President Roosevelt, who in a message to Congress used the following language:

THE PHILIPPINES.

> Real progress toward self-government is being made in the Philippine Islands. The gathering of a Philippine legislative body and Philippine Assembly marks a process absolutely new in Asia, not only as regards Asiatic colonies of European powers but as regards Asiatic possessions of other Asiatic powers; and, indeed, always excepting the striking and wonderful example afforded by the great Empire of Japan, it opens an entirely new departure when compared with anything which has happened among Asiatic powers which are their own masters. Hitherto this Philippine Legislature has acted with moderation and self-restraint, and has seemed in practical fashion to realize the eternal truth that there must always be government, and that the only way in which any body of individuals can escape the necessity of being governed by outsiders is to show that they are able to restrain themselves, to keep down wrongdoing and disorder. The Filipino people, through their officials, are therefore making real steps in the direction of self-government.

An American scholar resident in the Philippines, Dr. Robertson, who has been carefully studying the conduct of the Philippine Assembly, wrote of this body as follows:

> When one considers the lack of opportunity that the Filipinos have had for representative government, this extraordinary session marks an epoch in the history of the Philippine Islands. This remark is no idle panegyric, but is based on actual contact and conversation with various members of the assembly, as well as attendance at many of the open meetings of the assembly. * * *
>
> The assembly just closed was remarkable in several respects; for the discipline exercised by the speaker; for the great earnestness displayed by the representatives in general; for their dignity of bearing; and for their freedom from jingoism; and, outwardly at least, from party passion—outwardly, I say, because considerable party passion and personal feeling did at times creep into committee and secret meetings. In general, it may be said that this assembly in its quietness and dignity of action has established a precedent that can well be taken as a form for future sessions. * * *
>
> While it might be said that this special session was called upon to consider but a limited range of subjects, and can not, therefore, be taken as a typical session, where there is more at stake, yet an examination of the various bills introduced and discussed shows a considerable range of interests, and those interests among the most vital in the Philippines. That they were treated in so earnest and dignified a manner must score a point in favor of the working of the assembly. On the whole, there was an absence of bombast and fireworks that was refreshing. * * *
>
> Most of the delegates were exceedingly in earnest and worked up to the measure of their ability. * * * Conversations with various of the delegates showed them to be, on the whole, men of relative superior intelligence, alert, and anxious for the best good of the Philippines. This last is a very significant fact. The delegates, although elected to represent a certain locality, are keenly alive to the fact that they represent all the Philippines and must obtain the best good for the whole country. * * * If the leaders proceed with the wisdom that Rizal would have had, it is not too much to say that the Filipino Assembly will have permanently an honored place among the deliberative assemblies of the world.

These observations as to the results attained by the establishment of a popularly elected branch of our legislature are corroborated by the opinion rendered by the present Governor General of the Philippines on the work of the Philippine Legislature during a year where both of its branches, controlled by Filipinos, assumed under most trying circumstances the legislative powers of the Philippine Government. Mr. Harrison, in his annual message to the Philippine Legislature, on February 6, 1914, said:

> Gentlemen of the legislature, nearly four months ago I addressed you for the first time. I came to you then with high expectations of your legislative ability. Those expectations have now been justified. During the regular session which has just elapsed your labors for the public welfare have been earnest, industrious, and efficient. Your course has been one of progress and economy of the public moneys. Many laws of great importance have been enacted. Among these is the general appropriation act for the current expenditures of the Government, the first to become law since 1910. This act effected many reforms in the fabric of this government and has met with widespread approval. Peace and prosperity throughout the islands and tranquillity of the public mind bear evidence of this approval. The President of the United States has expressed his appreciation, and the Secretary of War has sent the following message:
>
> "I congratulate you on the passage for the first time in three years of a general appropriation bill, and on the fact that the bill was passed unanimously by both houses. I have no doubt but that there were, as to a great many features, differences of opinion, but it is a source of satisfaction to the department that such differences were satisfactorily adjusted. Please extend to both houses of the Philippine Legislature my congratulations on this event, and express to them my hope that this is but an indication of what may be expected in the future."

The general appropriation act, in many ways, increases the efficiency of the Government service, and will result in a saving of over ₱2,000,000 in our current expenses. We must now guard jealously the economies already effected and proceed to consider further reforms and retrenchment of unnecessary expenditures. By these methods we shall entirely avert the deficit in the general unappropriated funds of the treasury which faced us at the opening of the October session. And, further, we may also enact now a law appropriating funds for the public works and continue in every respect the previous admirable progress in the construction of roads, bridges, and artesian wells. For the framing of such an appropriation bill, as well as for a proper deliberation and careful scrutiny of many other measures of public moment, I have called this special session of the legislature to sit from to-day until the 28th of February, 1914. During the course of your proceedings I shall make to you certain recommendations for your consideration.

The art of government is, in many respects, the highest of the sciences. You have already demonstrated the ability of a legislature composed almost entirely of Filipinos to enact difficult and progressive legislation. In the days to come you will maintain the high standard you have already raised. Many eyes are upon you; many minds are fixed upon your every act. The time is one of utmost importance to the ultimate achievement of Filipino aspirations. The people of the United States are your friends. All of them, I am sure, wish earnestly for a continuation of the successful outcome of your labors.

A more detailed account of the work of this "Filipinized" legislature is given in the following letter written by the Manila correspondent of one of the metropolitan newspapers of this country:

MANILA, *July 25.*

Nearly 10 months have elapsed since October 6, 1913, when the new Governor General of the Philippines, Francis Burton Harrison, of New York, landed in Manila, and half an hour later delivered his now famous "Luneta address," announcing the intention of President Wilson to give the Filipinos a majority on the Philippine Commission. The announcement was hailed with joy by the Filipinos, by the majority of Americans and foreigners in the islands with misgivings and forebodings of political disaster.

As to the success of the experiment, opinions vary. In general, however, it may be stated that adverse criticism of the "Filipinized" legislature has largely subsided, if not entirely ceased.

How far has the faith of the present administration at Washington in the ability of the Filipinos to assume complete control of the legislative branch of the government been justified? What effect upon general sociological, political, and business conditions has the new order of things produced? Would the United States be justified in extending still further political autonomy to the Filipinos? This letter will be confined to a recital of facts and figures bearing on the accomplishments of the last session of the Philippine Legislature, the first in which both branches were under Filipino control.

THE "FILIPINIZED" GOVERNMENT.

The assembly, or lower branch of the Philippine Legislature, has, since its establishment in 1907, been composed exclusively of Filipinos elected by popular vote. The Philippine Commission is appointed by the President of the United States, with the consent of the Senate. Formerly it was composed of five Americans and four Filipinos, the Governor General being president of the body. By the appointment of four new Filipino commissioners and the reappointment of Commissioner Palma the Filipinos obtained last October a majority of one.

The three new American commissioners, who, with the Governor General, compose the racial minority, were also appointed in October, but did not reach the islands until the regular session of the legislature was practically over; so that whatever credit or discredit might attach to the last session of the Philippine Legislature must be placed on the shoulders of the Filipino commissioners, the Philippine Assembly, and, to a certain extent, upon those of the Governor General.

While it is true that the Governor General, because of the authority of the Washington Government behind him, and because of the powers and prerogatives vested in him by the organic act of 1903, can wield a vast influence upon the shaping of legislation, particularly in the upper house, yet, in fact, the chief executive did not avail himself of nearly the full influence inherent in his position.

Mr. Harrison desired to test the actual capacity of his Filipino confrères; therefore he effaced himself almost completely from the routine work of legislation. Of the bills introduced, but a negligible percentage were introduced by the Governor General, by far the major portion being framed and presented by the Filipino commissioners, who had been designated individual committees to deal with the various special phases of the legislative business.

WORK OF THE FILIPINO COMMISSIONERS.

Commissioner Mapa, the only Filipino commissioner having departmental supervision, or a portfolio, as they call it here, handled all bills pertaining to his own department, that of finance and justice; Commissioner De Veyra prepared bills having to do with the department of commerce and police; Commissioner Singson took care of the department of the interior legislation, with the exception of matters concerning the Moro Province, which were largely attended to by Commissioner Ilustre, who is a native of that Province. Commissioner Palma was intrusted with matters pertaining to the department of public instruction, and presided in the absence of the Governor General.

During practically the entire regular session the American commissioners intrusted with the three last-named portfolios, were absent, and the Filipino commissioners, in addition to their legislative duties, took care of the administrative work of these departments, which embrace in their jurisdiction the entire executive branch of the government.

The Governor General took but small part in the detail work of legislation in the commission. As a matter of fact, he absented himself time and again from the sessions of that body. On not a single occasion did he make use of his veto power to coerce or impede legislation. His congressional experience served him in good stead in parliamentary procedure, and he conducted the proceedings of the commission with system and dispatch.

It should be remembered, however, that in his "Luneta speech" and in his first message to the legislature he had previously outlined the policies of the administration with respect to finances, the civil service, "big business," and the relations of the governing to the governed. He had laid down a sweeping economy program, calculated to correct the alleged extravagances of the previous administration; he had declared the administration's intention more rapidly to substitute Filipinos for Americans in the civil service; he had announced that "business is intended to serve the government, not the government to serve business"; and he had assured and convinced the members of the legislature that the administration intended to give the Filipinos a fair test of their fitness for self-government.

The commission, as well as the assembly, adhered closely to the lines laid out for them in the Governor General's message. This was not due, as might be inferred, to servile compliance on their part with the will of the chief executive, but rather to their sympathy with the general principles and policies enunciated by Mr. Harrison. The fact that the Filipinos can not be led like sheep by the Governor General was evidenced in the discord and practical stoppage of constructive legislation that prevailed during the previous régime dominated by Mr. Forbes.

During the session just past, for the first time in the history of Philippine bicameral legislation under the American régime, there existed perfect accord in aims and principles between the Governor General and the two houses of the legislature. The two houses worked in harmony, and in but one instance—concerning the passage of a dental-practice regulation bill—did they fail to come to an agreement. There had been more or less constant friction between the assembly and the commission. The assembly always has stood for greater economy in governmental expenditures, more rapid "Filipinization" of the civil service, and greater consideration for the rights, aspirations, and customs of the people.

The commission in the past seemed to take the attitude that the Filipinos were unable to assure safe and sane forms of conduct with respect to nearly all matters arising for settlement by legislative action. The labors of the assembly were depreciated and ridiculed by the mass of Americans and foreigners over here, as well as by the local American press.

In 1910 the two houses came to a deadlock over the general appropriation bill, the most important measure arising in the legislature, and the Governor General was forced to resort to the expedient, prescribed by law, of continuing the last jointly approved appropriation bill for another year by executive order, although the measure was considered by the lower house extravagant and unfair to the people.

INFLUENCE OF A NEW SPIRIT.

The "new era" heartened and quickened the legislative machinery. More bills were passed than at any previous session. A much greater percentage of bills originating and passing in the commission was approved by the lower house than ever before, and a surprisingly large number of excellent bills of prime importance to the islands and in line with the best and most progressive modern thought were enacted into law. An appropriation bill was passed which bids fair to turn the threatened deficit in the insular treasury into a sizable surplus, and an entirely new system of apportioning and appropriating Government funds for the different bureaus was evolved and provided for.

The following comparative table will make clear the quantitative results of the last session as compared with that of previous sessions:

	Sessions.			
	1910–11	1911–12	1912–13	1913–14
Bills introduced in commission	63	69	71	103
Bills passed by commission	48	52	61	69
Commission bills enacted by legislature	17	17	18	50
Bills introduced in assembly	484	518	421	398
Bills passed by assembly	98	181	131	169
Assembly bills enacted by legislature	33	69	51	51
Percentage of commission bills enacted by legislature	35	25	30	72
Percentage of assembly bills enacted by legislature	34	38	39	30
Percentage of bills passed by either house enacted by legislature	34	37	36	42

It will be seen that whereas the percentage of bills passed by the assembly and enacted by the legislature fell from 39 last year to 30 for this year's session, the percentage of commission bills passed by the legislature rose from 30 to 72.

The decrease in the number of assembly bills enacted was largely due to the fact that the extraordinary labors involved in the framing in the general appropriation bill resulted in the holding over of a great many bills in the lower house without action. Moreover, due to the renaissance of the national spirit, there was more activity in the lower house in the matter of framing bills and more initiative in the presentation of measures. Then, the commission was very cautious in its consideration of bills arising in the lower house, and brought its superior wisdom and experience to bear on measures arising there. It thus performed its intended function as a check upon the more youthful and exuberant spirits of the assembly.

CONFIDENCE IN THE COMMISSION.

On the other hand, the unbounded confidence of the assembly in the commission, a new condition in Philippine legislation, is demonstrated by the fact that 72 per cent of bills passed in the upper house were approved by the lower chamber. Compare this figure with the 30, 25, and 35 of the three previous years.

During the last session 101 bills were enacted into law. For the three previous years the figures are 69, 86, and 50.

In the session of 1910–11, outside of a "negotiable instruments" act, a bill for the reorganization of the justice of the peace courts, and a bill granting a gas franchise for the city of Manila, no important measures were enacted. In the following session the most important laws passed were an act permitting the utilization of the "gold standard and reserve" fund for public-works loans to Provinces and municipalities; a warehouse-receipt act, governing the use of this class of business documents; an automobile law, fixing speed limits, etc.; and an act providing for systematic government inspection of the municipal police forces in the islands. This latter law was never enforced for lack of appropriation. During the session of 1912–13 the only important laws enacted were a bill providing for the registration of patents, a law regulating the practice of veterinary medicine, and a bill appropriating funds for a portion of the cadastral survey of the islands.

QUALITATIVE VIEW OF LAST SESSION.

The list of important bills for the 1913–14 session is as follows:

(1) General appropriation bill: This measure was the principal source of the present administration's unpopularity among the Americans in the islands. It did away with reimbursable appropriations. It reduced all salaries above $3,000 from 5 to 10 per cent. It provided for a reduction of the American force in most bureaus and the placing of

Filipinos in more responsible positions. It did away with unnecessary expenditures and gave the bureau chiefs less leeway in handling public funds. It eliminated some positions entirely, and even eliminated an entire bureau, which had been a drag upon the Government's finances in the previous administration. It consolidated other bureaus into more efficient and economical organizations. It was a bill intended to accomplish the principal object of the government's financial policy—economy. The bill was framed by the assembly, amended, and redrafted by the commission, and acepted by the assembly, after conference, with but few changes.

When it was made public a terrible howl went up from the unfortunate Americans who were deprived of positions or suffered reduction in salary. Many resigned. The bill was derided and pointed to as a horrible instance of the incapacity of the Filipinos for self-government. As a matter of fact, it was a creditable piece of legislative work—one that few legislatures in the world could have accomplished with equal thoroughness and dispatch. As a result of this bill government expenditures for the first four months of the present fiscal year showed a saving of approximately $1,000.000 as compared with last year, and no one has noticed any appreciable slackening up in the functioning of the government machinery. Had this bill not been passed salaries and bureau expenditures would have eaten up all the government's revenues, not leaving a centavo for public works.

ANTISLAVERY BILL PASSED.

(2) An antislavery bill, which Worcester claimed could not be passed in the assembly.

(3) A judiciary bill, entirely reorganizing the higher judiciary system in the islands.

(4) An internal-revenue act, totally revising the old internal-revenue act. Great opposition arose to this bill because it provided for a small tax on the output of gold mines. This provision was finally eliminated, but will be passed in the next session.

(5) A bill abolishing the bureau of navigation: This bureau operated a fleet of vessels for which there was no real use except to serve as junketing ships for the higher officials. It ran a marine repair shop on an extravagant basis and supported several superfluous and mostly incompetent high-salaried officials. It was apportioned between the bureau of customs and the bureau of public works. Much wailing arose over the passage of this measure.

(6) A bill establishing a board of public utilities commissioners, patterned after the New Jersey public utilities law. Indignation in railroad and corporation circles.

(7) A bill limiting the sale of friar lands to individuals to 16 hectares and the sale to corporations to 1,024 hectares. One hectare is about 2½ acres.

(8) A law standardizing the hemp product of the island: In the past different concerns had different brands and different classifications and marks. This resulted in much inconvenience and dissatisfaction to the importers abroad. This bill was denounced by the hemp brokers as unfair, but the manufacturers abroad approved it and welcomed it. The dealers and growers will greatly benefit by it as well.

(9) An antiopium bill, increasing the severity of sentences for the use and importation of opium.

(10) A patent-medicine bill providing for the labeling and advertising of patent medicines and so-called therapeutic appliances, and providing adequate punishment for infractors.

(11) A wireless telegraph bill, grating a franchise to the Marconi Wireless Co. for the establishment of a station.

Mr. Chairman, I feel that I have given the committee enough evidence regarding the capacity of the Filipino people to legislate for themselves. I might well stop here, since no further proof is needed. There is, however, one more witness whom I can not omit, for I feel that as he is himself a great legislator the committee should not be deprived of his views on this subject.

The gentleman from Minnesota [Mr. MILLER] during his rather hasty trip to the islands last year paid a visit to the Philippine Assembly. The assembly received the gentleman with all the honors becoming a Member of the Congress of the United States. Speaker Osmeña greeted the distinguished visitor with warm words of welcome and asked him to convey to the Congress the respect and regard of the people of the Philippine Islands. The gentleman from Minnesota, after graciously returning the greetings of the speaker, said something in praise of the work done by the assembly. It had been my fortune and honor to act as a translator for the gentleman on that occasion, a difficult task, indeed, for his speech was, as usual, very eloquent. It was almost impossible for me to find the corresponding words in Spanish, and I am not even sure that I quite understood what he said. If I did not, then I unintentionally and regretfully misrepresented him to the assembly. The gentleman can tell me now whether I have or have not misrepresented him. I shall not undertake to repeat his own eloquent words, but what in effect I understood him to say is that the assembly had done well and had shown its capacity to legislate.

Mr. MILLER. Has the gentleman finished the quotation?

Mr. QUEZON. That is not all that the gentleman said, but for my purpose that is all I care to cite now.

Mr. MILLER. It was so long?

Mr. QUEZON. Yes.

Mr. MILLER. I want to say that the gentleman's translation at the time was perfect, as I gathered from my knowledge of the Spanish, and that his statement to-day is perfect, with one slight exception.

Mr. QUEZON. What is that?

Mr. MILLER. The gentleman said I told the Philippine Assembly it had done splendidly. I told them they had done splendidly and they had done nobly——

Mr. QUEZON. That is true.

Mr. MILLER. And that they had demonstrated their capacity as legislators, and that I was in favor of permitting them to elect a senate. So I indorse all that the gentleman said and make it stronger.

Mr. QUEZON. I am glad to learn that I succeeded in understanding and translating the speech of my distinguished friend. [Applause.]

Mr. Chairman, there is just one more thing I wish to say regarding the assembly, in connection with a statement made by the gentleman from Ohio [Mr. FESS]. The gentleman suggested that because out of the 56 members of the constitutional convention held in 1787, 29 were college bred, this fact indicated conclusively the grade of literacy and political capacity in the American colonies.

What would the gentleman from Ohio say, Mr. Chairman, if I told him what is true, that the members of the Philippine Assembly are 81, and that the proportion of college bred among them is 100 per cent, for every one of them is college bred? [Applause on the Democratic side.]

CONFIRMATION OF APPOINTMENTS.

Mr. Chairman, I shall now take up the matter of the confirmation by the Senate of the Governor General's appointments. This is one of the most important features of the bill, and it ought not to require much argument to convince the committee of its wisdom. You have this provision in your Federal Constitution, because your fathers knew the dangers of giving too much power to the Executive. If an elective President can not be trusted with unlimited discretion in the appointment of the administrative officials of the Government, how could anyone believe that an appointive Governor General could be safely intrusted with such a discretion? Were the Governor General of the Philippines to make his appointments without being subject to confirmation by another branch of the government, he could easily equal the Czar of Russia in so far as absolute power is concerned, for it must be remembered that the veto power vested by this bill in the Governor General is, to all practical intents, unlimited. The Governor General of the Philippines will, under the terms of this bill, appoint the members of his cabinet or the heads of the executive departments; he would further appoint all those officials now appointed by him, or, in other words, every judge of the courts of first instance, every justice of the peace, every provincial fiscal (prosecuting attorney), every chief and assistant chief of bureau, every provincial treasurer; in fine, every officer of the judiciary, excepting the members of the supreme court, and the most important positions of the executive branch of the Philippine Government. Can anyone fail to see what a tremendous power this lodges in the hands of a single man? How dangerous a weapon for an unscrupulous or incompetent Governor General! It might be harmless, nay, beneficial, in the case of a patriotic Governor General like Francis Burton Harrison, but there are not many of Mr. Harrison's type, even in the United States, and it is enough that there be a possibility of an unworthy Governor General to justify the adoption of legislative measures that will prevent him from doing his worst. Restrictive laws are written for the wicked, and they are essential to the protection of society as long as humanity has the weakness of the flesh.

NEW GRANT OF FRANCHISE.

Mr. Chairman, I have touched upon the most important changes in our present organic law as contemplated in the bill. There are only two more innovations which deserve comment at this time.

The qualifications of voters now required by law in the Philippines are as follows:

SEC. 13. Qualifications of voters: Every male person 23 years of age or over who has had a legal residence for a period of six months immediately preceding the election in the municipality in which he exercises the suffrage, and who is not a citizen or subject of any foreign power, and who is comprised within one of the following three classes:

(a) Those who, prior to the 13th of August, 1898, held the office of municipal captain, gobernadorcillo, alcalde, lieutenant, cabeza de barangay, or member of any ayuntamiento.

(b) Those who own real property to the value of ₱500, or who annually pay ₱30 or more of the established taxes.

(c) Those who speak, read, and write English or Spanish shall be entitled to vote at all elections: *Provided*, That officers, soldiers, sailors, or marines of the Army or Navy of the United States shall not be considered as having acquired legal residence within the meaning of this section by reason of their having been stationed in the municipalities for the required six months.

The bill reenacts these provisions, but it adds that those who can read and write in any language may also vote. Such an innovation is wise and right. There are many literate Filipinos educated in the use of their own language who, because they could neither write Spanish or English, are disqualified to vote under the present law. It is unjustifiable to deprive of the franchise those Filipinos who can inform themselves of the rights and duties of citizenship through native literature. The

proposed innovation would at once increase the number of the Philippine electorate and would put a stop to the assertions of the past few years that the paucity of electors in the islands in proportion to the rest of the population furnishes evidence of the incapacity of Filipinos for self-government.

GOVERNMENT OF THE NONCHRISTIAN TRIBES.

Mr. Chairman, there is one provision in the bill which I must admit I swallowed only after much effort and which I have not fully as yet digested. I refer to the proposed plan for governing the non-Christian native inhabitants of the Philippines. There are about 600,000 of these non-Christians in the total 8,000,000 population of the islands. About one-half of them are pagans and the other half Mohammedans. The immense majority, while uncivilized in the sense that they have not accepted occidental civilization, are not, however, savages. They live in villages and towns; they have their own homes and farms; and they follow regular pursuits of life. They live under well-organized municipal and provincial governments, and they pay their local taxes. A few of the pagans are nomads, and a few others up to a few years ago were head hunters.

We have all heard the ridiculous assertions that there is a lack of sympathy between the Christian and the non-Christian Filipinos, and that the former can not be trusted to govern the latter. As for placing the Mohammedans, or so-called Moros, under the control of a Filipino government, we are warned of the horrors that would follow such attempt. Of course there is no more ground for such statements than there is for the charges regarding the incapacity of the Christian Filipinos to govern themselves. Both aspersions are due to the same cause—the determination of certain persons to keep in their own hands the tempting job of ruling both non-Christian and Christian Filipinos.

The majority members of the insular committee had, as I understand it, to face the fact that so much has been said about this supposed antagonism between the Christians and the non-Christians that they had to make some concession to those who in good faith fear that too radical a change in the present government of these non-Christians might result in disaster. With a rather conservative step it was hoped to silence in part the pessimistic prophets. As regards the increase of the powers of the Christian Filipinos to govern themselves, while opposition was to be expected, the old battle cry of Filipino incapacity could be answered effectively with the mere recitation of proofs to the contrary already afforded by the Filipinos. But such an answer could not be made were it proposed to turn the non-Christians completely over to their Christian brothers, because the Christian Filipinos have had no opportunity thus far to govern those wards of the Nation. For this reason some sort of compromise measure was adopted.

According to the organic law, the government of the non-Christians is exclusively vested in the appointive Philippine Commission, thus allowing the Filipino people no participation whatever in the process of government. The commission could appropriate from funds in the treasury raised by taxing the Christian Filipinos any sum it chose to spend for the benefit of the non-Christians without consulting the assembly, and even in the face of its protests. This power has been abused in the past. The bill proposes that the government of these non-Christians shall be vested in the Philippine Legislature provided for in the act, but that they shall be represented in the legislature by 2 senators and 10 representatives appointed by the Governor General.

It is evident that this new proposal is better and less undemocratic than the present system, and I therefore accept it as a lesser and only a temporary evil—temporary because the bill provides that when the newly created legislature shall have convened it may revise this undemocratic arrangement.

PRACTICAL TEST OF FILIPINO CAPACITY OFFERED BY THE BILL.

Mr. Chairman, there is one point that the promoters of the bill can make, after all is said on both sides of the question, that must effectively destroy all argument against the granting of these new powers to the Filipino people. That point is this: The great merit of the bill, that which constitutes its most apparent justification, is that it offers the only practical means whereby the capacity of the Filipino people for self-government can be tested. If the Filipinos justify themselves, as I know they will, then this issue is ended; if they fail, as I know they will not, then the Congress may return to the present system of absolute American control. The bill is framed with so much regard for the interests of the United States, as well as for that of the Filipinos themselves, that while it permits the Philippine Legislature to initiate and pass all sorts of legislation, it reserves to the Governor General a qualified and to the President an absolute veto power, besides the constitutional right of Congress to annul any of such laws after they have been enacted. In this way the Filipino people can do nothing that will jeopardize the interests of the American people or seriously affect their own should the experiment result in a failure.

THE PREAMBLE.

Mr. Chairman, we have been told, both by the ranking member of the minority on the Committee on Insular Affairs, the gentleman from Iowa [Mr. TOWNER], and his colleague on the committee [Mr. MILLER], that were it not for this preamble, which, they say, makes the bill a partisan measure, there would have been some possible agreement, at least between the minority and the majority members of the Committee on Insular Affairs, as to most of the legislative provisions of the bill.

Mr. Chairman, the spokesmen for the minority members of the Insular Committee have complained of the attitude taken by the majority members of that committee in framing the bill. I submit in all earnestness, Mr. Chairman, that whatever may have been the attitude taken by the Democrats in dealing with the Republicans in the committee room, that should not affect the opinion of the Republicans as to the intrinsic merits of the measure. It may be true that the gentleman from Virginia [Mr. JONES] and the other majority members on the committee have shown a partisan spirit in the discussion of the bill in the committee; I do not know. It may be true—and, indeed, there can be no dispute about it—that this is a Democratic measure in the sense that it was introduced by a Democratic Member, reported favorably by a Democratic committee of the House, and indorsed by a Democratic administration. It may be true, as I can see clearly, that the preamble is practically a copy of the Philippine plank of the Democratic platform, and that, therefore, the bill is a redemption of a Democratic campaign pledge. But this does not make it a partisan or a political measure, as the gentleman from Iowa [Mr. TOWNER] put it, nor should it, for that matter, be opposed by any Republican Member of this House.

Mr. Chairman, this preamble is not a partisan declaration; it is not an expression of a partisan policy. It is the congressional confirmation of all the declarations made by the Chief Executives of the Government of the United States to the world and to the Filipino people from the beginning of the Spanish-American War up to this day regarding the national policy of the American people toward the inhabitants of the islands.

Has anyone forgotten those memorable words of the late President McKinley, that—

Forcible annexation, according to the American code of morals, is criminal aggression.

More recent and more to the point are the declarations made by ex-President Roosevelt and ex-President Taft.

Mr. Taft, in his special report as Secretary of War to the President of the United States in 1907, said:

There are in the Philippines many who wish that the Government shall declare a definite policy in respect to the islands so that they may know what that policy is. I do not see how any more definite policy can be declared than was declared by President McKinley in his instructions to Secretary ROOT for the guidance of the Philippine Commission, which was incorporated into law by the organic act of the Philippine Government, adopted July 1, 1902. That policy is declared to be the extension of self-government to the Philippine Islands by gradual steps from time to time as the people of the islands shall show themselves fit to receive the additional responsibility. * * * It necessarily involves in its ultimate conclusion as the steps toward self-government become greater and greater the ultimate independence of the islands.

Ex-President Roosevelt, in his annual message to the Congress in 1908, declared:

I hope and believe that these steps mark the beginning of a course which will continue till the Filipinos become fit to decide for themselves whether they desire to be an independent nation.

* * * * * * *

I trust that within a generation the time will arrive when the Philippines can decide for themselves whether it is well for them to become independent, or to continue under the protection of a strong and disinterested power, able to guarantee to the islands order at home and protection from foreign invasion.

After such authoritative statements from men who are the accredited spokesmen of your respective parties and at that time were leaders of the Nation as well, can you now, gentlemen of the Republican and Progressive side of the House, turn around and repudiate those declarations by voting against this preamble simply because its language, though substantially the same as your own spokesmen's declarations, is literally copied from the Baltimore platform?

To the Democratic side of the House I have but a little more to say in connection with the preamble. You know that the preamble is but a recital of what has been the Philippine plank of your platform ever since the Philippines came under the Government of the United States, and without frank and open disregard of that pledge you can not vote against that preamble.

Moreover, the titular leader of your party has already informed the Filipino people, not only on behalf of his Democratic administration but in the name of the American Nation, that the policy of this Government toward the islands is what this preamble states it to be. And this message of President Wilson has been delivered to the Filipinos by Gov. Gen. Harrison, the present representative of the United States, on the solemn occasion of his arrival in the Philippines, in the following address:

Citizens of the Philippine Islands, the President of the United States has charged me to deliver to you the following message on behalf of the Government of our country:

"We regard ourselves as trustees acting not for the advantage of the United States, but for the benefit of the people of the Philippine Islands.

"Every step we take will be taken with a view to the ultimate independence of the islands and as a preparation for that independence. And we hope to move toward that end as rapidly as the safety and the permanent interests of the islands will permit. After each step taken experience will guide us to the next.

"The administration will take one step at once and will give to the native citizens of the islands a majority in the appointive commission, and thus in the upper as well as in the lower house of the legislature a majority representation will be secured to them.

"We do this in the confident hope and expectation that immediate proof will be given in the action of the commission under the new arrangement of the political capacity of those native citizens who have already come forward to represent and to lead their people in affairs."

This is the message I bear to you from the President of the United States. With his sentiments and with his policy I am in complete accord. Within the scope of my office as Governor General I shall do my utmost to aid in the fulfillment of our promises, confident that we shall thereby hasten the coming of the day of your independence. For my own part I should not have accepted the responsibility of this great office merely for the honor and the power which it confers. My only motive in coming to you is to serve as well as in me lies the people of the Philippine Islands. It is my greatest hope that I may become an instrument in the further spread of democratic government.

To every Democrat government rests only upon the consent of the governed. And we do not maintain that self-government is the peculiar property of our nation or that democratic institutions are the exclusive privileges of our race. On the other hand, we do not believe that we can endow you with the capacity for self-government. That you must have acquired for yourselves. The opportunity of demonstrating it lies before you now in an ever-widening field.

As for ourselves, we confidently expect of you that dignity of bearing and that self-restraint which are the outward evidences of daily increasing national consciousness. In promising you on behalf of the administration immediate control of both branches of your legislature, I remind you, however, that for the present we are responsible to the world for your welfare and your progress. Until your independence is complete we shall demand of you unremitting recognition of our sovereignty

You are now on trial before an international tribunal that is as wide as the world. We who appear before this august court in the light of your advocates are proud of the privilege that has fallen to us, and we do not shun the responsibilities of our rôle, which is without a parallel in history. We shall eagerly await convincing proof that you are capable of establishing a stable government of your own. Such a government may not necessarily denote an entire reproduction of our own institutions, but one which guarantees to its citizens complete security of life, of liberty, and of property. We now invite you to share with us responsibility for such a government here. Every Filipino may best serve his country who serves us in this endeavor, and to that end I call upon every good citizen of these islands, and all who dwell therein, whether of native or foreign birth, for assistance and support.

People of the Philippine Islands, a new era is dawning. We place within your reach the instruments of your redemption. The door of opportunity stands open and under Divine Providence the event is in your own hands.

[Applause on the Democratic side.]

Mr. Chairman, that message of President Wilson and the words of Gov. Harrison, with which he delivered to us that message, as well as every prior similar declaration made by former Presidents and Governors General have been received by the Filipino people as the solemn promise made by the American people regarding the future independence of the Philippines. To us there are no Democratic Presidents or Democratic Governors General, no Republican Presidents or Republican Governors General. There are to us but American Presidents and American Governors General, and what they say and do we receive as words and actions of their Nation itself. What a terrible disappointment it would be to the Filipino people if the Congress were now to repudiate those declarations by the defeat of the preamble! And how such a repudiation would shake the faith of the Filipino people in this Nation!

Mr. Chairman, some say that this preamble is worthless because it is not actually a part of the bill, and is therefore without force. If so, then there should not be much opposition to it, for if left in the bill it can do no harm. As for myself I value this preamble for its full worth. It is the one feature of the bill that will permit the Filipino people, even while you still retain your sovereignty over the islands, to feel that they can lift their heads so long bowed in hopeless subjection. It is the one feature of the bill that will permit the Filipino people to look to the days of the morrow with joyous hearts, full of hope and expectation. It is the one feature of the bill that will permit the Filipino people to look at your flag, even while it floats over our public buildings and edifices, as the ensign not of physical force exercised for the permanent domination of a weak people, but as the symbol of the generous purpose of a great country to help a smaller nation that strives to be free to attain its goal, to stand some day soon upon its own feet and move forward thereafter unaided and uncontrolled. [Applause on the Democratic side.]

Mr. Chairman, the eyes of the Filipino people are now upon the Congress, and at this particular time upon this House. They live breathless with the horrible suspense caused by the doubt as to what you will do with this bill. On this occasion, momentous as it is to the destinies of that people, they appeal to you not as Democrats, Republicans, or Progressives, but as Americans representing the people that of their own accord have proclaimed themselves as the champions of human freedom. Would you fail them, you who have sacrificed so much in life and in treasure on the altar of this sacred cause? Would you fail them, you whose example, whose influence, whose sympathy have in the past inspired other subject nations and have helped them to attain their freedom? Would you fail them, you who have gone to war in order to liberate Cuba? Would you fail them, you who have encouraged them to overthrow the sovereignty of Spain and accepted their assistance in the Spanish-American War? Would you fail them, after so many of your implied as well as expressed promises of rapid extension to them of self-government and ultimate independence?

Mr. Chairman, the Filipino people have resorted to every means to secure their freedom, and what they have done shows that they deserve to be free. They have shown to the world that they are a people conscious of and longing to secure their national rights. Scores of thousands of their sons have laid down their lives and millions upon millions of their wealth have been destroyed for the sake of that one most precious boon granted to humanity by God Almighty. Failing in this struggle because of their lack of sufficient physical strength, they have tilled the soil, they have searched the mysteries of science, they have learned to appreciate the beauties of art, they have familiarized themselves and complied with their duties as citizens, hoping against hope that what they could not win in battle they might gain through their industry, their culture, and their enlightened and patriotic citizenship.

The Filipino people, Mr. Chairman, beg you to pass this bill. Indeed, they contend that they have given enough proofs of their capacity for self-government to warrant a complete delivery to them of unrestricted powers of government. But since it is said that this bill is all you are now disposed to consider and in view of the fact that they have absolute confidence in the American people, they are willing to accept this bill, and in good faith they acquiesce in the new and more ample trial to which they are to be submitted.

Shall government of the people, by the people, for the people perish from the earth?

Mr. Chairman, sixscore and eighteen years ago your forefathers "brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal."

This proposition was once challenged as applicable to all men residing within the confines of that Nation, regardless of their color and their race. The world, which had doubted "whether that Nation, or any Nation so conceived and so dedicated," could "long endure," watched with eager eyes the outcome of this issue. Your fathers "gave their lives that that Nation might live." "From these honored dead" the survivors took "increased devotion to that course for which" their noble comrades "gave the last full measure of devotion." They highly resolved "that these dead shall not have died in vain; that that Nation, under God, shall have a new birth of freedom; and that government of the people, by the people, for the people shall not perish from the earth."

Mr. Chairman, twoscore and eleven years have gone by since this sacred resolve was sworn to. To-day the doctrine of the government of the people, by the people, for the people is challenged. Shall you renew that resolve, or shall you demonstrate that those dead have died in vain? [Loud applause.]

Mr. TOWNER. I yield 20 minutes to the gentleman from Illinois [Mr. MANN]. [Applause on the Republican side.]

Mr. MANN. I wonder if you have in your mind's eye the North Pacific Ocean and the lands which bound it and the islands which lie in it? On this side of the ocean lies Central America, the United States, a little strip of British Columbia, and then the long coast line of Alaska, reaching clear over to Russia; and running out from Alaska a little to the southerly are the Aleutian Islands, which reach far toward Japan. We have toward the southern end on this side the Panama Canal, which we will strongly fortify and protect. A little to the west, some 2,500 miles, lie the Hawaiian Islands; a little to the west of those Midway Island and Wake Island, and farther west

the island of Guam, and then, farther west, the Philippine Islands. We have to the south of the Hawaiian Islands our share of the Samoan group of islands—the Tutuila and Manua groups. The United States controls, through its own ownership, the great bulk of the strategic positions on this side of the North Pacific Ocean, on the north side of the North Pacific Ocean, and the islands in the North Pacific. On the other side of the Pacific, Russia, with Siberia, and Manchuria, under the control practically of Japan; Korea, under the control of Japan, and China, reaching well to the south. We control to-day to a large extent the strategic positions of the Pacific Ocean lying east of Asia and Japan. The civilization has girdled the world. It started in the Far East and has moved westwardly, taking possession of westerly Asia and northern Africa, of Europe, and, finally, of the American Continents, and as it has reached the Pacific coast on our side it has come in contact again with the civilization of the Far East.

Only a few years ago Japan was opened to the world and to modern civilization. The changes which have been made in Japan, the marvelous growth of her influence, are not equaled by any other nation, I think, in the history of the world.

Close to Japan, lying like a sleeping giant of the world, is China, with her vast territory, with her immense population, and that which was going on in Japan a few years ago is now going on in China. The awakening of China is more marvelous, perhaps, than was the awakening of Japan; and as these great people in China arise to the civilization of our modern days and engage in the manufacture of products, in the production of all which man produces, we will enter upon a series of competitive efforts with the Far East which have never yet been equaled in this world of ours.

The great population of China, we say, shall not be permitted to come to our shores. At the same time we say that China shall not be permitted to shut out our people or our goods. Such a position as we take perhaps can not be abandoned by our people, but it can never be enforced in the long run without the power to enforce it. When China is awakened and the tendency comes which always comes to an awakening country, thickly populated, going out into the world either with her own people or with the production of goods made by her people, we will have a conflict on our hands which will last for many years, possibly for many centuries. And we who are now legislating, if we do not bear in mind the possibilities not merely of to-day or to-morrow or of 100 years from now—we who are legislating now, who do not bear in mind the possibilities of hundreds of years from now and the inevitable conflict, commercial or otherwise, which we will meet in the Far East, have forgotten the principles which ought primarily to actuate us. [Applause on the Republican side.] I have no doubt that it is as certain as that the sun will rise to-morrow morning that a conflict will come between the Far East and the Far West across the Pacific Ocean. All of which has taken place in the world during the history of the human race up to now teaches us that the avoidance of this conflict is impossible. I hope that it may only be a commercial conflict; I hope that the war may not come; I hope that there will be no conflict of arms. But I have little faith that in this world of ours people and races are able to meet in competition for a long period of time without an armed conflict. A fight for commercial supremacy in the end leads to a fight with arms, because that is the final arbiter between nations.

We command the Pacific Ocean to-day with the land that we have on this side, with the islands which we possess in the sea, and with the Philippines on the other side. Will we surrender our command? I say no; never. [Applause on the Republican side.] If we should let the Philippine Islands go to-day without a string tied to them they would belong to some other country inside of 10 years. But if they could keep their independence for 25 or 50 or even 100 years, in the end they would be used against us instead of in our favor in this inevitable conflict between competing races. I am opposed to giving the Philippine Islands independence.

Mr. QUEZON. Will the gentleman yield?

Mr. MANN. It is one of the characteristics of my friend from the Philippine Islands that he can not sit still while somebody is discussing the Philippine question. I do not blame him, but I hope he will wait until I get through. I may say something to console him before I am through. I do not believe that we should grant independence to the Philippine Islands. I do not believe that we ought to grant independence with a string tied to it. I had rather grant them absolute independence than to grant independence with a string tied to it, as suggested by the gentleman from the Philippine Islands.

Mr. QUEZON. I did not.

Mr. MANN. The gentleman says he did not, but he did in the speech he just made. I do not believe that the example we are having in Mexico is any inducement to extend, either directly or indirectly, the so-called Monroe doctrine, or anything like it, to the Philippine Islands. [Applause on the Republican side.]

We are having trouble enough now about a country where we say we can not afford to let another nation enter; we are having trouble enough now in Mexico, and with the other Republics to the south, without engaging in any more enterprises of that kind.

Who would propose on the part of the Philippines that they be given their independence without reserving a naval station to us? I am not sure that I am in favor of reserving any naval station. I think that if they are to go, let them go and let Japan and China take them, or Germany or England, as is inevitable, and then we will know what we have got to fight. Who would propose to-day that we let Japan have a naval station in Mexico? Who to-day in our country would assent to a proposition, if England should propose it, to transfer British Columbia to Japan? Would we consent to it? We would go to war in a minute to prevent it. Why? Because we would be opposed to letting Japan or China have a base for supplies on this side of the Pacific Ocean. Why? Because when it comes to that we know that it would hurt us in the conflict that we know will come. Now, we have the Philippine Islands. They came to us not by our taking away their independence. We did not seize them. We took them from Spain. I think that in justice to our own country and to those who will come after us it is our duty, first, to keep the Philippines under the flag of the United States, and, second, to make them our friends. It would be no great advantage to the United States to own the Philippine Islands or to have them a part of us in time of war if they were unfriendly to us. It is our business not only to keep them under our flag but to make them want to stay under our flag. I do not think that any gentleman can say, as I have heard said here, that this is an impossibility. Not at all. Most of the people who get under the American flag want to stay there. If we deal with the Filipino people rightly, they will want to stay here. I have heard debate here about whether the Filipinos are capable of self-government or incapable of self-government. I assume, for the purpose of argument at least, that they are capable of self-government. I am in favor of giving to the Filipino people the broadest liberty of self-government, retaining them under the American flag. [Applause on the Republican side.] The objection I have to the pending bill, in part, is that it has too many restrictions in it. If others do not offer amendments to remove those restrictions, I expect to offer a number of amendments to remove the restrictions upon the Philippine Legislature; and for this reason: If we keep them, we ought to give them the widest liberty of action in all their local affairs.

If we have determined or do determine upon eventual independence, we ought then to try to give them the widest liberty now and see whether they abuse it; and all these restrictions, which we would not impose upon a Territory of our own country, which we nowhere endeavor to impose upon the States of our country, I think ought to be wiped out. I think we ought to give those people a chance to see whether they can carry on their own local affairs, make them friends of the United States, so that in the future when these conflicts will arise we will have control of this side of the Pacific Ocean and we will have warm, devoted, patriotic American friends and citizens in the Philippine Islands on the other side of the Pacific Ocean, so that this country and our race may remain supreme on the fighting ground of the future, the Pacific Ocean. [Applause on the Republican side.]

I yield back whatever time I may have remaining.

The CHAIRMAN. The gentleman has consumed 20 minutes.

Mr. JONES. Mr. Chairman, I yield one minute to the gentleman from Ohio [Mr. GORDON].

Mr. GORDON. Mr. Chairman, I shall avail myself of the privilege of extending my remarks in the RECORD, and I yield back the balance of the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio? [After a pause.] The Chair hears none.

Mr. JONES. Mr. Chairman, I yield to the gentleman from Iowa [Mr. KIRKPATRICK].

Mr. KIRKPATRICK. Mr. Chairman, briefly stated, the Philippine Archipelago embraces within its range over 3,000 separate and distinct islands, with an area of land amounting to 115,000 square miles, an area more than twice as large as that of the State of Iowa.

None of these islands is wholly without inhabitants after the similitude of this particular race of people. They are not of that size and stature that characterizes the Anglo-Saxon or the North American Indian; hence by some they are denominated as "little brown men."

In the incipiency of our war with Spain it was announced by President McKinley that the contest would not be one of conquest or territorial aggrandizement, and later he proclaimed that in the event of occupation of the Philippine Islands the process of benevolent assimilation would soon add greatly to the uplift of the people inhabiting those islands, thus insuring a better life, higher ideals, and greater civilization; yet within 90 days after occupancy of the islands there were over 400 American saloons in the city of Manila.

From a selfish standpoint I would favor the retention of these islands, following the advice of the old lady to her husband on his leaving for the West to buy land, "Git a plenty while you're a gittin, says I." Again, there are others moving in the world powers who have longing eyes and designing motives in regard to these possessions, and if at any time we should become involved in a war they would not, in my judgment, hesitate to take advantage of the situation, as has already been demonstrated since the European War began. In this connection, I would not thrust a shaft nor hurl a javelin at Japan without calling attention to the action of France in placing Maximilian on the throne of Mexico, a thing that she would not have dared to do had our hands been free from an internal war of our own.

If the crisis in Europe is to result in changing the map of that continent, I think I will defer the purchase of a map until such time as we may be able to get a later issue or a revised edition.

But let us return to a discussion of the bill now being considered by the Congress. We captured Cuba, and should have kept it. We could have used it in our business, but we returned it to ungrateful occupants. In the settlement and adjustment of our difficulties with Spain, I would have exercised the same power and dominion over that country that Germany did over France at the end of the Franco-Prussian War, and in addition thereto an indemnity of $10 000 should have been paid to the family of each of our brave boys who went down in the *Maine*.

The Philippines are, as it were, our wards, and in the granting of autonomy to these people we should continue to exercise such power and influence over the islands as will protect and perpetuate the very modest desires of these people, and to this end let us extend a helping hand such as will insure to them a happy and prosperous name in the history of the nations of the world.

Mr. OGLESBY. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I would like to make the inquiry as to whether the gentlemen who are asking to extend their remarks in the RECORD are asking to extend remarks on this bill or upon another matter?

Mr. OGLESBY. On this bill.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. GARRETT of Tennessee. Mr. Chairman, I call attention to the fact that the rule provides that all gentlemen may print on this subject whether they speak or not.

Mr. JONES. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. DICKINSON]. [Applause.]

Mr. DICKINSON. Mr. Chairman, I have listened with great interest to the Representative from the Philippines, and also to the distinguished leader of the minority, Mr. MANN, of Illinois. I am in sympathy with the well-spoken words of the Philippine Representative, who pleads for the fulfillment of promises repeatedly made to the Filipinos, whose hearts yearn for national liberty and the right to control their own affairs. I am out of accord with the utterances of the minority leader, who would perpetuate conditions by which national freedom to this people shall be delayed and the expensive burden upon our people shall be continued. I am heartily in favor of the passage of this bill. The Members on this side of the aisle will not forget the repeated declarations of the Democratic Party in its several national platforms in favor of Philippine independence and the surrender of control of their own affairs to those people. I have heard a great deal of discussion here about the literacy and illiteracy of the people of the Philippine Islands. I care not for that. I care little for that discussion, but more that justice be done, and that they be not longer held in national bondage by this great liberty-loving Republic of ours, which has proclaimed so long to all the world the right of a people to be free and to govern themselves.

The American people are more interested in the doctrine of freedom and independence and liberty of a people whose hearts hunger for the right to govern their own affairs than it is in the percentage of literacy or illiteracy of its population. The literacy of this people is far greater than that of our southern Republic, and yet we are not seeking to extend our control over this Republic that lies in turmoil and trouble to our south. Some have talked about having taken the Philippines from Spain. We purchased from Spain a title about to be lost by assuming $20 000 000 of indebtedness that she was unable to pay at the end of the Spanish War, and we assumed the payment of that $20,000,000 indebtedness and took this title to the Philippines that Spain had already about lost. For 400 years Spain had ruled with an iron hand those people, who struggled for liberty and had already acquired or were about to acquire full control of their own affairs, when we, without any conception that we would ever go into the Orient and acquire foreign territory, traded the right to pay $20,000,000 of indebtedness growing out of Cuban conditions in order to assume control in the far Orient. It had never been the policy and desire of this country that we should own colonies, especially in another hemisphere. The Democratic Party that had believed in the utterances of Thomas Jefferson has never believed that any people were good enough to control and rule any other people without their consent. [Applause on the Democratic side.]

We ought not to be in the Orient for purposes of conquest or of government over an alien race, and I have no patience and no sympathy with the idea that we should establish dominion over a country in the Orient, when we continually assert the Monroe doctrine and proclaim the thought that no European power shall extend dominion in the Western Hemisphere. [Applause on the Democratic side.] I have no sympathy with the playing upon the prejudices of any people and predicting and inviting war with either a people in the Orient or anywhere else on the face of the earth. On this day we pray for the time when militarism shall end and when the doctrine of peace and friendship shall be proclaimed in all the world. I have no sympathy with great leaders who hold up before us at all times the idea that war, endless, continual, everlasting war, shall be the heritage of this and all other countries for all time. [Applause on the Democratic side.] I believe it is in the power of this Government to advance a nobler and a better thought—that of peace on earth and friendship between all nations. We pay tribute to Japan and to her leaps to intelligence and power. Why not also give tribute to these splendid people who are a thousand miles away from Japan and six or eight thousand miles away from us, whose literacy is greater than the literacy of Mexico, greater than the literacy of Spain when it dominated these Filipinos, and greater than the literacy of hundreds of people who control their own affairs. They are leaping to the front. Why not extend to them their heart's desire to govern themselves? Let them come into their own; let us surrender the dominion acquired in order that they may assume their rightful control over their own affairs, and withdraw our armies from their midst and stop the enormous expense to the American people of sustaining a large standing army in a foreign country.

Thomas Jefferson uttered the thought and many repeated the idea of the acquisition of Cuba, so as to round off our own country and thus better safeguard our rights in our part of the world, making more secure the domination by us of the Panama Canal, built at so large a cost, in our desire to connect two great oceans and to shorten distance for trade purposes. A hundred times better to have acquired Cuba, that lay in the Atlantic so near our border, than to have acquired and now try to perpetuate dominion over these islands in the far-away waters of the Pacific Ocean.

The American people gave to the world their plighted faith that they would not acquire Cuba for permanent occupation and sovereignty, and in its declaration of war against Spain, referring to Cuba, declared:

> That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island, except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people. (Apr. 20, 1898.)

We kept this promise with reference to Cuba. If willing to let Cuba be free to govern herself, why should we be less generous and just to the Philippines? Should not Democrats at least attempt to keep faith with its party promises? The last national declaration of the Democratic Party, uttered at Baltimore, reads as follows:

> We reaffirm the position thrice announced by the Democracy in national convention assembled against a policy of imperialism and colonial exploitation in the Philippines or elsewhere. We condemn the experiment of imperialism as an inexcusable blunder, which has involved

us in enormous expenses, brought us weakness instead of strength, and laid our Nation open to the charge of abandonment of the fundamental doctrine of self-government. We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established, such independence to be guaranteed by us until the neutralization of the islands can be secured by treaty with other powers.

In recognizing the independence of the Philippines our Government should retain such land as may be necessary for coaling stations and naval bases.

Four times in its national platform declarations the Democratic Party has said that the Filipinos should have their independence. Admiral Dewey years ago declared that the Filipinos were more intelligent than the Cubans, and, if true, it is not a question of education but a question of right and justice to the Filipinos and of justice and relief to the American people.

Why not pass this bill, a moderate measure, but a positive declaration, to the end that these people shall have their desire when they shall evidence to the people of the United States that they have established a stable government. Let us separate ourselves from continued domination of this far-away country, and we will be the better able to follow out the immortal doctrine laid down and preached by Thomas Jefferson, who declared that the settled policy of our people should be peace and friendship with all nations and entangling alliances with none. [Applause on the Democratic side.]

Mr. KELLEY of Michigan. Will the gentleman yield?

Mr. DICKINSON. I will.

Mr. KELLEY of Michigan. This is the first time that the Democratic Party has been in full control of the Government since these islands were acquired——

Mr. DICKINSON. And the first time it has had any opportunity to keep its plighted word given to the world about the Filipinos.

Mr. KELLEY of Michigan. With that opportunity before you, why do you not go ahead now and free these islands and set up an independent government there? You may not have a chance again for a long time.

Mr. DICKINSON. Mr. Chairman, I am perfectly willing to go the full limit; and I believe, regardless of the fact that there are disturbances to the south of us, regardless of the fact that there is war in Europe, regardless of the growth of any people anywhere, the United States of America is strong enough to declare to-day their purpose for complete independence for these people. But the Republican side of the House so long has resisted the idea of giving at an early or at any date full and complete independence to the Philippines that out of this conflict there has arisen this moderate bill that every man ought to be willing to give his cordial support to. [Applause on the Democratic side.]

Mr. JONES. Mr. Chairman, I yield 10 minutes to my colleague on the Insular Affairs Committee [Mr. GOULDEN].

Mr. GOULDEN. Mr. Chairman, as a member of the Committee on Insular Affairs, presided over by the distinguished gentleman from Virginia [Mr. JONES], and to whom credit is due for his untiring efforts in framing this bill, I am in entire accord with the measure.

The administrative features of the bill were satisfactory in the main to all the members of the committee. The preamble, or introduction, which is in harmony with the platform adopted at the Baltimore convention and meets the approbation of the best sentiment of the people of the United States, caused a division in the committee on political lines.

The platform of the Republican Party adopted at Chicago in 1912 means nothing, as it contains no specific declaration on the subject. On the other hand, the Democratic position, as expressed at Baltimore, is clear and explicit. Briefly, it reads as follows:

> We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established, such independence to be guaranteed by us until the neutralization of the islands can be secured by treaty with other powers.

The preamble in the bill is as follows:

> Whereas it was never the intention of the people of the United States in the incipiency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and
>
> Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and
>
> Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence.

Certainly there can be no misunderstanding, as the declaration is as clear as the noonday sun, so that he who runs may read and understand.

On the question of ultimate independence of the Philippines, as early as it can safely be done, and the sooner the better for both countries, there is no division of opinion among Democrats. The members of that party on the committee differ somewhat as to the probable time this can be done safely and advantageously to the 8,000,000 people of the islands.

Personally I am in perfect accord with the President in believing that the time has not arrived to do this, no matter how desirable it might seem to be.

The changes in the proposed new organic law, while not radical, are in the interest of both countries, and will prove of incalculable advantage to the Filipinos, enabling them to demonstrate their ability to govern themselves. It is satisfactory to them, as voiced by 3 leading Provinces and 40 municipalities; by the able representatives in Congress, Commissioners QUEZON and EARNSHAW; by Gov. Gen. Harrison, a former distinguished Member of the House; by the majority party there; and the clergy in the islands. The attitude of these men, familiar with conditions there and knowing the sentiment of the people, should induce the Congress to promptly pass this wise beneficial legislation.

The principal changes in the proposed law are to define citizenship substantially in accordance with existing law, the only change being that the Philippine Legislature is authorized to confer the right of citizenship upon citizens of the United States residing in the islands. Places upon the Philippine Government the responsibility for all expenses contracted by that government on its own account. Declares that the statute laws of the United States hereafter enacted shall not apply to the Philippines except where expressly so provided. Confers upon the Philippine Legislature authority to amend or repeal any law continued in force by this bill, and specifically extends this power to all laws relating to revenue and taxation in effect in the Philippines subject to certain limitations. Confers the legislative power now exercised by the Philippine Legislature and the Philippine Commission upon the legislature authorized in this bill. Provides that the trade relations between the islands and the United States shall continue to be governed exclusively by laws enacted by the Congress of the United States. Establishes a Philippine Legislature, to consist of two houses, to be known as the senate and the house of representatives, respectively, and vests all legislative authority in them, except as otherwise specified. Provides that the members of the senate shall be elected for terms of four years, and that each senate district shall have the right to elect two senators. Defines the qualifications of those who shall vote for senators and representatives and for all other elective officers.

It gives the people of the islands a much larger measure of home rule and must prove much more satisfactory to both countries. The best sentiment of the business men having money invested in the islands is favorable to this bill.

The leading newspapers of the country are favorable to it, to quote extracts from the New York World and the Evening Post among the many at hand. The former in a recent issue said:

> This pledge is faithfully observed in the bill now reported to Congress by Chairman JONES of the Insular Affairs Committee. It asserts a purpose to recognize Philippine independence when a stable government has been established; and in providing a Philippine Legislature which will be elective for both branches and which will have broad powers, subject to certain restrictions in tariff and currency and land legislation and to the veto of the Washington Government, the way is opened for the Filipinos to prove their capacity to establish a stable government.
>
> Through such an act we shall have an end of the twaddling and deceiving policy which holds out to the Filipinos a promise of independence when they are fit for it and then denies them a man's chance to prove their fitness.

[From the Evening Post, New York, an old and independent newspaper.]

> The Jones bill, reported Saturday, not merely follows the Democratic pledge that independence be granted the Philippines as soon as a stable government could be established in the islands, but it looks to effective steps to bring about conditions that will permit the severance of political relations with the United States. The substitution for the commission of a popularly elected Senate follows naturally the action of the administration last fall in giving the Filipinos a majority in the upper appointed body. The new bicameral legislature, with full powers of legislation except as regards tariff, currency, and public lands and the restriction of a congressional veto, will give the islanders full room to demonstrate their governmental capacity. The suffrage is also enlarged. Under Gov. Gen. Harrison, and with the admirable order that has characterized the Filipinos in the recent uncertain months, the development of a stable government should be rapid. Friends of the Philippines, as well as advocates of caution, may be glad that the eight-year date for independence proposed in the first Jones bill has been dropped.

The minority report, signed by 5 of the 7 Republican members of the committee, dissents from the unanimous report of the majority, consisting of 14 members. Its objections are confined almost entirely to the declarations, which are termed politics for the want of a better name. Our friends on the other side of this Chamber do not seem to be especially in love

with the platform adopted at Baltimore, and always object to its being carried out by the Democratic Party in fulfillment of its pledges; but that party will assume all responsibility, as the people in 1912 decided it should do. The Democrats of this Congress, appreciating the trust placed in them by the people, will pass this measure, which will inure to the benefit of the Philippines and the American Nation. [Applause.]

Mr. JONES. I yield to the gentleman from Texas [Mr. SLAYDEN].

Mr. SLAYDEN. Mr. Chairman, after the eloquent and earnest plea of the gentleman from the Philippines for the right of his people to be free, everything that comes after in this debate is anticlimax. He spoke with a comprehension and with a feeling which perhaps no other Member of this House can possibly have. And it is a curious criticism of the present state of the public mind in this country that the representative of a people who are not free, but who would like to be, has to appeal to the representatives of a country which boasts of its freedom to be given the same privilege. That is a reflection upon us and upon this Congress; and I hope that at the first opportunity which may hereafter arise the step toward such a goal that we are now taking may be followed by others and this glorious work completed.

Mr. Chairman, when the debate on this bill closed last Monday the gentleman from Ohio [Mr. FESS] had just concluded an entertaining speech against it. He never fails—at least, I have never known him to fail—to make an entertaining speech, but on that occasion he fairly surpassed himself. His account of the settling of the American Colonies was scholarly, entertaining, and instructive, but, really, so far as I was able to judge, shed no particular light on the Philippine problem.

I was charmed with the grace and skill with which he recalled those stirring days at the outbreak of the Spanish-American War, the sea battle at Manila, and the heroic behavior of our Army and Navy. But I have always thought that courage in American soldiers and sailors might be taken for granted. I thought so in 1898, and I could never see the reason for the hysteria and bragging at that time. It was all brought back to me pleasantly and reminiscently by the gentleman's speech. I realized again the whole situation as it was in April and May, 1898, with its confusing mixture of sincerity and humbuggery, bathos, fustian and brag, heroes and near heroes, and skilled politicians who played it up for personal gain. The one new element introduced by the gentleman from Ohio was the self-given certificate of virtue and integrity and the note of thankfulness that we Americans are not like other men.

It was a real pleasure to meet these old acquaintances again, and, notwithstanding their new dress, they were easily recognized.

As a Democrat I am glad to know that the distinguished gentleman approves Thomas Jefferson, although he seemed to be specially pleased only with that great man's departure from the strict letter of the Constitution when the Louisiana Territory was bought. That, however, is not surprising when we remember that he is from a State that has a constitution which is persistently disregarded.

He also indorses the Declaration of Independence—for home use—but does not want its principles applied in the Philippines. Government only with the consent of the governed sounds well in Ohio, but is not to be thought of in the Philippines.

The gentleman, by the way, was also distressed over the illiteracy in the Philippine Islands, and that led to an unpleasant controversy between him and one or two other Members of the House, which I am pleased to say has now been put away, and the sun shines once more.

Mr. FESS. Mr. Chairman, will the gentleman yield for a moment just at that point?

Mr. SLAYDEN. No, sir. If I shall have concluded at the time the gavel falls, I will be happy to yield to the gentleman for any question he wants to ask.

The gentleman now seems to be alarmed, as I was saying, at illiteracy in the Philippines. But the party of which he is such an ornament was not haunted by that fear nor its partisan purpose halted 45 years ago when millions of unlettered blacks were given control of the Southern States. As if to insure the supremacy of the illiterate and unfit at that time, the whites were disfranchised just when the blacks were enfranchised.

But, Mr. Chairman, that has nothing to do with this bill or the effort to give the Filipinos the independence which the true American spirit always encourages people to demand.

The gentleman from Ohio says that in the consideration of this bill we should give attention to it from the point of view of Philippine interests, and only after that consider American interests. I hope the time will soon come when all Philippine legislation will be done in Manila; but until that time does come I can not divest my mind of the idea that it is our duty to keep always before us the possible influence on American affairs of every legislative act.

Mr. Chairman, let me make my position perfectly clear. I am interested in the Filipinos, and I want them to have independence and justice, but I am more interested in my own people. The problem has always been not what we should do with the Filipinos, but what they will do with us.

Mr. FESS. Mr. Chairman, will the gentleman yield for a question?

Mr. SLAYDEN. How much time have I left, Mr. Chairman?

The CHAIRMAN. The gentleman has two minutes remaining.

Mr. SLAYDEN. It is quite impossible.

Mr. JONES. Mr. Chairman, I yield to the gentleman five minutes more.

The CHAIRMAN. The gentleman from Texas [Mr. SLAYDEN] is recognized for five additional minutes.

Mr. FESS. The reference to my statement that the gentleman made, that my only concern was for the Filipino people must be modified——

Mr. SLAYDEN. In giving them absolute independence, in making the divorce as complete as possible, we will be doing a great service to our own people.

In giving them absolute independence, in making the divorce as complete as possible, we will be doing a great service to our own people.

This bill is the first tardy step in the redemption of a pledge repeatedly made to release the people of the Philippine Islands from any sort of political obligation to the Government of the United States. It begins the work of breaking a bond which ought never, speaking my humble judgment, to have been forged.

There has hardly been a day since Dewey sailed into Manila Bay in 1898 that our presence in the Philippines has not been unwelcome. We are an alien people, and the Filipinos regard us as interlopers. They view us as we would them if the situation were reversed.

Neither party has ever declared for a perpetual political association with the islands, and the Democratic Party has persistently, in every convention since 1900, inclusive, frankly stated its sympathy with the desires of the Filipinos for absolute independence. Many of the friends of Philippine independence have believed there should be a gradual concession in that direction which would ultimately transfer to the people of the islands a complete and unhampered control of their own affairs. This end is what I have hoped for and always worked for, but I have never wavered in the belief that it should be granted without delay or conditions except, possibly, an arrangement with certain great powers for their neutralization. In a speech which I delivered in this House on the 15th of February, 1905, I put forward the suggestion of neutrality, basing my remarks on an argument made by Erving Winslow, of Boston, before the Thirteenth International Peace Congress in that city in 1904. So far as I am advised Mr. Winslow was the first person in the country to propose such a settlement of the Philippine question. Other gentlemen have since pressed the neutrality idea with zeal and persistence, and my colleague, Mr. BURGESS, is entitled to much credit for his earnest work in behalf of the island people and neutralization.

Let me briefly review the platform utterances of the two great American parties on this question. In 1900 the Kansas City Democratic platform said:

> We condemn and denounce the Philippine policy of the present administration. It has involved the Republic in unnecessary war, sacrificed the lives of many of our noblest sons, and placed the United States, previously known and applauded throughout the world as the champion of freedom, in the false and un-American position of crushing with military force the efforts of our former allies to achieve liberty and self-government.

In the same year the Republican platform, after a sort of meaningless, high sounding rodomontade, made this mild pledge to the Filipinos:

> The largest measure of self-government consistent with their welfare and our duties shall be secured them by law.

We were to judge of what was needed for them. The Philippine people asked for bread and were mocked with that stone.

The Democratic platform in 1904 said:

> It is our duty to make that promise—
>
> The promise of freedom—
>
> now, and upon suitable guaranties of protection to citizens of our own and other countries resident there at the time of our withdrawal set the Filipino people upon their feet, free and independent, to work out their own destiny.

The Republican platform of that year promised nothing to the Philippines and was content with saying that they had been

useful as a base from which to send relief to the legations in Peking, which had been assaulted by the Boxer revolutionists.

In 1908 the Democrats again condemned the experiment in imperialism and colonial enterprises and favored a declaration by the Government for Filipino independence and expressed a desire to have the islands neutralized.

The Republican platform of that year boasted of the achievements of the party and claimed that it was advancing the people of the islands to "an ever-increasing home rule." That was a very mild draft for people who were thirsting for liberty.

The Democratic platform of 1912 reaffirmed the declarations of the platforms of 1900, 1904, and 1908 on the Philippine question, except that it declared it to be the duty of this Government to guarantee the independence of the Philippines until—

The neutralization of the islands can be secured by treaty with other powers.

The Republican platform of 1912 had on this question one declaration with which I am in hearty accord. It said:

Our duty toward the Filipino people is a national obligation which should remain entirely free from partisan politics.

That is a sane and patriotic, a wise and noble position, and I hope all the Republicans in this Congress will be guided by it and vote their honest sentiments on this bill. I believe that if this question had never been associated with partisan politics an overwhelming majority of both parties would long ago have voted for a resolution like this, perhaps for one much more advanced. It would have resulted in legislation highly gratifying to the Filipinos and good for our own people.

Mr. Chairman, I support this measure as an act of justice to the Philippines and because it offers relief to this Government from expensive and embarrassing obligations which should never have been assumed and which should be put away as quickly as possible.

In undertaking to maintain government over an unwilling, alien people we violate a fundamental of our own country. The Filipinos have never consented to our control, and they never will do so. That is reason enough for the political divorce this bill proposes. But we will make our own position in relation to other countries stronger by withdrawing from the Philippines. They contribute nothing to our security; they are a place to defend, where successful defense is almost impossible, and thus are a source of weakness.

Mr. DIES. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to his colleague?

Mr. SLAYDEN. I would like to, but have only a minute and a half left.

Mr. KELLEY of Michigan. And the gentleman has promised me, too.

Mr. DIES. Mr. Chairman, I raise the question of no quorum.

The CHAIRMAN. The point of no quorum has been made. The Chair will count. [After counting.] Only 26 Members are present—not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Anthony	Gardner	Knowland, J. R.	Peterson
Austin	George	Konop	Plumley
Barchfeld	Gill	Korbly	Porter
Bartholdt	Gilmore	Lafferty	Powers
Bartlett	Gittins	Lee, Ga.	Prouty
Bell, Cal.	Godwin, N. C.	L'Engle	Ragsdale
Bowdle	Goeke	Lever	Reed
Brockson	Goldfogle	Levy	Reilly, Conn.
Broussard	Good	Lewis, Pa.	Rothermel
Brown, N. Y.	Graham, Pa.	Lindbergh	Rouse
Browne, Wis.	Greene, Mass.	Lindquist	Sabath
Browning	Gregg	Linthicum	Scully
Brumbaugh	Griffin	Lloyd	Shreve
Burke, Pa.	Gudger	Loft	Slemp
Burke, Wis.	Guernsey	McClellan	Smith, Md.
Calder	Hamill	McGuire, Okla.	Stedman
Cantor	Hamilton, N. Y.	MacDonald	Stevens, N. H.
Cantrill	Hammond	Madden	Stringer
Carr	Hardwick	Mahan	Summers
Church	Harris	Mann	Talbott, Md.
Clancy	Harrison	Martin	Talcott, N. Y.
Connolly, Iowa	Hayes	Merritt	Ten Eyck
Conry	Helvering	Metz	Townsend
Copley	Hensley	Mitchell	Treadway
Danforth	Hinebaugh	Mondell	Tuttle
Dooling	Hobson	Montague	Vare
Doremus	Howard	Moore	Walker
Doughton	Hoxworth	Morin	Wallin
Driscoll	Hughes, W. Va.	Mott	Walsh
Dunn	Hulings	Murdock	Watkins
Elder	Humphreys, Miss.	Neeley, Kans.	Whaley
Estopinal	Johnson, Utah	O'Shaunessy	Whitacre
Evans	Keister	Page, N. C.	Willis
Fairchild	Kelley, Pa.	Paige, Mass.	Wilson, N. Y.
Faison	Kent	Palmer	Winslow
Fields	Key, Ohio	Parker	Woodruff
Fitzgerald	Kiess, Pa.	Patten, N. Y.	
Francis	Kindel	Patton, Pa.	
French	Kinkaid, Nebr.	Payne	

The committee accordingly rose; and the Speaker having resumed the chair, Mr. FLOOD of Virginia, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (H. R. 18459) to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands, finding itself without a quorum, he caused the roll to be called, whereupon 276 Members, a quorum, answered to their names; and he presented the names of the absentees to be printed in the Journal and RECORD.

The SPEAKER. A quorum is present. The committee will resume its session.

Accordingly the committee resumed its session, with Mr. FLOOD of Virginia in the chair.

The CHAIRMAN. The gentleman from Texas [Mr. SLAYDEN] has three minutes remaining.

Mr. SLAYDEN. Mr. Chairman, it is a little embarrassing to realize that the only way in which I can possibly get such an audience is to have them called in, as this has been.

Mr. Chairman, I was addressing myself to the thought that an alien government is never a happy or satisfactory government for the people on whom it is enforced. Enforced outside government over people of a different race, language, and religion is rarely, if ever, satisfactory. Examples of this fact are brought to our attention from time to time, and in a way we can not afford to ignore. A great war is now raging in Europe; a war with armies so huge that the forces of Xerxes, which so impressed us in our youth, appear an insignificant mob; a war which in its evil economic influences threatens to surpass in six months the destruction done in the Thirty Years War or that of the Napoleonic era, from which Europe did not fully recover in all the years between Waterloo and the Crimea.

This unparalleled conflict is largely the outgrowth of a struggle between Slav and Teuton in that turbulent section of Europe generally referred to as the Balkans. No doubt either Franz Josef of Austria or Wilhelm of Germany could give those people a government which, in all essentials but one, would be as good as they can give themselves. That one essential is the quality of self-government. The Slav does not want a Teuton overlord any more than the Teuton would want a Slav executive. Race and language are different, and each has tremendously developed all the prejudices and hopes of its own people—prejudices and hopes that are fundamental, that spring from the natures of the two peoples.

Statesmen in Europe who can see through and beyond the smoke of battle are already considering what steps should be taken to insure continued peace when peace shall come again. With wonderful unanimity the statesmen of all countries that are not actually battling for the possession of the territory and sovereignty of other people are agreed that when the map of Europe comes to be redrawn the boundaries must run, if peace is to continue, along racial lines. Slav should have Slav government and Teutons a Teutonic government. In a word, if they are to be content, the people who are to be governed must be consulted and their wishes respected.

If that doctrine is sound in Europe, why is it not sound in Asia and America? I think it is, and I believe that we should apply it in the Philippines and that the government of the Filipinos should be conducted by themselves.

Let me say again, Mr. Chairman, that I support this bill because it is right, because the Filipino people want it, and because I am thoroughly convinced that it will be best for our own people. We can not continue to force government on an unwilling people without cultivating contempt for the great principles on which our Republic is founded. I have not forgotten that one of our own officials in the Philippines referred to the Declaration of Independence as a "damned inflammable document." It is an inflammable document, and I am glad of it. It helped to light and has kept burning the fires of liberty throughout the world for nearly 140 years. What American would have it otherwise? [Applause.]

Mr. TOWNER. Mr. Chairman, I yield to the gentleman from Illinois [Mr. MCKENZIE].

Mr. MCKENZIE. Mr. Chairman, from that eventful morning when the thunder of Dewey's cannon rolled away over Manila Bay and reverberated in the mountains of Luzon, sounding the death knell of Spanish sovereignty over that island kingdom, and as the American flag floated out on the breeze from the walls of the citadel where for 400 years the banner of Castile had been the emblem of power, the people of our country have had an unexpected but no less great responsibility placed upon them.

This responsibility might have been shirked. Dewey could have sailed away with his fleet after the battle, leaving the

people of those islands to their fate. Some other nation might now be exercising sovereignty over them. However, in my judgment, the hand of Him who controls the destiny of men and of nations pointed the way, and by a series of events placed the millions of people in the Philippines in our hands. Have we as the guardians of these people proved ourselves worthy of the trust? Let the world pass judgment upon our work. In discussing matters pertaining to the duties we have to perform in the exercise of our sovereignty over these people, how pitiable to hear men in this body belittle our work and decry our motives. How idle for our Democratic brethren to talk about their recent and past political platforms in relation to this matter. Oh, that in this matter we might rise to the heights of real statesmanship, that prejudice could be laid aside, that the nobility of purpose and the unselfishness of the motive of the great Republic might be understood, at least by our own citizens. How regrettable are such statements as those made by the gentleman from Ohio [Mr. GORDON] the other day when in discussing this bill he said, among other things:

I say that this whole Philippine enterprise is one of the most disgraceful chapters in the history of the United States. Why, this Philippine history is a thing that every decent American ought to try to forget.

He further said in his speech, giving as his authority ex-Speaker Reed, that we bought them for $2 a head. I say such statements are regrettable, and I do not think they set forth the true sentiment of the American people. I differ from my friend from Ohio and all persons who hold such views. I do not think the taking over of the Philippines by our Government marks a disgraceful chapter in our history; but, on the other hand, when the work is complete, which we have undertaken for the Philippine people, it will conclude not only the most glorious chapter in the history of our country but the most glorious and unselfish chapter in the history of any nation. Is there an American who does not feel some pride in the work of his country in the Philippines, mighty as our country is; able, as Mr. QUEZON well said, "to dominate his country with physical force," and misuse his people, instead of aiding them in their preparation for self-government and liberty?

It is true that after we had vanquished Spain, the mother country, we paid her $20,000,000 to relinquish all of her claims, not only in the property in the Philippine Islands but to sovereignty in every sense. Did we buy the Philippine people as chattels? No; but we did pay to the mother country a sum in full consideration for every claim to the people and property of the islands. Why? We were not bound to do so. Was it wise? Yes, in my judgment; for when the time comes for the Philippine people to unfurl their flag as a nation they will in truth and fact be free. All claims were paid by the unselfish citizenship of the great free Republic of the western world. We paid the price. When the flag of our country, the emblem of liberty, was unfurled in those islands, and as the morning sun kissed its beautiful folds a new day dawned in that far-away land; the night of ignorance and superstition which had obscured the light of liberty was dispelled, and the Philippine people awakened to the fact that the road to freedom and self-government was opened up to them. It was hard for them at first to grasp our true purpose, but we have demonstrated to them that it was not to take them by the throat and rob them, but it was our purpose, as we loved liberty, to take them by the hand and lead them step by step up the pathway of civilization and teach them self-government until such time as they were fitted to walk alone in the march of the nations of earth. How have we proceeded in this work? In the way some critics for political buncombe would have the world believe? Oh, no. Have we taxed the people for our benefit? No; but, on the other hand, we have poured our treasure into the work; and while it may be true that a few individuals have been unfaithful to their trust in this work, it is always so, and all such should be summarily punished; but as a Nation we have been doing an unselfish work, and one that we could relinquish at any time and escape responsibility if we did not have the future welfare of these people at heart. Thus far, step by step, we have led them on in their efforts, giving them a voice in the control of their municipal affairs as fast as it seemed wise. The bill under consideration is only a part of the plan outlined in the beginning and is a long step forward, giving them practical self-government under our protection, and is the proper thing to do.

The bill as reported from the committee, in my judgment, is not perfect and should be amended; but in the discussion of the bill and in the work to follow I do not think it is in keeping with the exalted purpose of our policy to express too great a readiness, either by preamble to this bill or otherwise, to shake the dust from our feet and leave the Philippine people to shift for themselves. Why this haste to declare we are going to let them go and shift for themselves? Let us rather give them the right to self-government under our protection, aiding them in every way we can, and when they have demonstrated their ability to conduct a government such as we hope to see them enjoy, free representative government, and they then petition for the relinquishment of our sovereignty over them, we will gladly withdraw, as we did in Cuba, taking down our flag and, as we behold theirs flung to the breeze, join with them in rejoicing that a new nation is launched in that far-off clime. But let us remember that in order to have and enjoy self-government such as our Republic, the people must have general intelligence and education relating to the matters of government; not just a few of them, such as we see in our sister Republic in Mexico. Such a government is a farce when spoken of as a Republic. Such a people should be ruled by a monarch. We wish to see the Philippine people have a real Republic, and in order to have that the masses should be educated; and it is inconceivable that at this time, after only a few years of freedom, that the masses of the people could have the education and experience to justify us in saying that they are fitted for the character of self-government we, as free men, would desire to see established. As an American, loving liberty and despising despotism, abhorring the political teachings of royal blood and class distinction, I cheerfully join in the enactment of any legislation that will tend to better the condition, make happier the hearts, and inspire the souls of the Philippine people with an ambition to press forward to the goal of self-government under the guiding and protecting hand of the great American Republic.

I yield back the remainder of my time.

Mr. JONES. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. DAVENPORT].

[Mr. DAVENPORT addressed the committee. See Appendix.]

Mr. TOWNER. I yield 10 minutes to the gentleman from California [Mr. KAHN]. [Applause on the Republican side.]

Mr. KAHN. Mr. Chairman, it is just 13 years to-day since I returned from the Philippine Islands to my home at San Francisco. At that time the Philippine insurrection had just been quelled and the first shipload of American schoolteachers had landed at Manila. Military rule was giving way to civil administration. In the following long session of the Fifty-seventh Congress, in 1902, the Philippine civil-government bill was enacted into law.

Since then, under the policies and administrations of the Republican Party, we have affected to render civil control independent of and superior to the military power, and have abolished an inquisitorial system of criminal investigation and secured for the humblest citizen charged with crime the advantage of a fair and speedy trial.

We have cleared the southern seas of the archipelago of piracy and everywhere suppressed brigandage and outlawry and made life and property secure throughout all the civilized parts of the islands.

We have suppressed intertribal strife among the uncivilized peoples and inspired in them a desire to pursue the arts of peace.

We have built schoolhouses and colleges throughout the Philippine Islands and kept among the Filipino people schoolteachers, who have taught the children to read and write.

We have done more in a dozen years to spread a common language among the Filipino people than was accomplished in all preceding centuries.

We have built hospitals for the sick and spread throughout the islands the principles of modern sanitation. We have eradicated smallpox, suppressed Asiatic cholera and bubonic plague, and prevented the scourge of beri-beri.

We have encouraged intercourse with the outside world by building in Manila Harbor the finest docks in the Orient and one of the most extensive breakwaters in the world, by lighting the coasts, and by improving all other Philippine harbors.

We have encouraged interisland communication by providing new routes of communication, new lines of steamships, new railways, new telegraph and telephone lines, and new roads and bridges.

We have constructed great public works and undertaken important irrigation projects, driven artesian wells, built market places, and instituted many other permanent improvements.

We have encouraged every native industry and implanted new industries. We have more than doubled the commerce of the archipelago. We have provided new markets for Filipino products and given the islands the advantage of free trade with the home country.

We have increased the demand for labor and more than doubled the wages of labor and have raised the standard of living.

We have replaced a base and fluctuating currency, which made trade a gamble, with a stable and uniform system.

We have settled the agrarian difficulties connected with the friar lands, which for more than a quarter of a century were a constant source of irritation and controversy throughout the archipelago. We have made the public domain available for settlement by the common people and have afforded means of acquiring and securing land titles at little cost.

We have destroyed a system of taxation which imposed its burden upon the poor and weak, and substituted therefor an adequate system of revenue, distributing its burden so as to require of every Filipino only his fair share.

We have given the Filipino people complete autonomy in their municipal governments and a majority of direction in the provincial governments and a large and increasing share in the central government. We have provided a Philippine Assembly, composed wholly of duly elected native members, coequal in power with the Philippine Commission in all legislative matters. We have permitted the Filipinos to share in the composition of the Philippine Commission, in all of the courts, and in all of the executive departments. We have led them steadily in the way of self-government, and given them meanwhile honest and efficient administration.

We have economically collected the revenues of the islands and honestly expended every cent thereof for the mental, moral, and material development of the Filipino people.

Mr. Chairman, it is only fair to say that this has all been accomplished out of the revenues of the Philippine Islands. While thousands of our countrymen may be under the false impression that the islands have been a great financial burden to us, that is not the case. Their possession has probably added somewhat to the cost of our military and naval establishments, but after our experience of unpreparedness in the Spanish-American War the American people undoubtedly would have demanded an increase of the Army and the Navy even if we had not come into possession of the Philippine Archipelago. But I believe every American must feel proud of what we have accomplished in the Philippines. It is a record of achievement that any political party might well be proud of; it is a record of achievement in colonial administration that has probably never been equaled at any time in the history of the world.

But, Mr. Chairman, to-day the Democratic Party is at the helm in this country. It seems to me our Democratic friends are laboring under the fatuous belief that a Filipino republic can be founded by legislative fiat. Otherwise we probably would not now be considering a bill whose preamble, in my judgment, is fraught with evil and danger. It is a well-known principle of judicial construction that the preamble of a measure is not a part of the law. The preamble of the Jones bill simply declares the purpose of the people of the United States at some indefinite time in the future to recognize the independence of the Philippine Islands. In my judgment, this preamble carries the germs of insurrection and revolution. Strike the preamble from the bill and I think many of us can support the bill. The preamble can never have the force of law. Anyone who is familiar with the oriental character and the mental processes of eastern peoples will recognize the fact that the preamble is loaded with danger. It was an alleged promise of the recognition of Philippine independence that brought about our first Philippine insurrection immediately after the War with Spain. Aguinaldo claimed that he had the promise of Admiral Dewey for such recognition. Admiral Dewey, on the other hand, stated unequivocally that there never was such a promise made by him; and as between Aguinaldo and Admiral Dewey, the overwhelming majority of the American people take the word of the distinguished victor of the Battle of Manila Bay.

Mr. Chairman, I have heard some remarkable statements made on this floor within the last half hour or so regarding conditions in the Philippines. The gentleman from Missouri [Mr. DICKINSON] stated in effect that at the time the Americans went into the Philippine Islands the natives had about accomplished their independence; that thereupon we came in and took possession of the islands. My friend from Missouri is not familiar with Philippine history. Nearly six months before our entrance upon the scene the leaders of the revolution against Spain had sold out their people. They agreed to accept ₱800,000, and in consideration thereof some of their leaders, including Aguinaldo, promised to lay down their arms and to quit the islands forever; ₱400,000 were deposited to Aguinaldo's credit, or to the credit of Aguinaldo & Co., in a bank in Hongkong; ₱200,000 were paid to Isabelo Artacho, to be divided among the insurgent leaders remaining in Biacnabato in the Philippines, and I believe ₱200,000 were never paid. But they got to quarreling among themselves about the loot. Aguinaldo denied the right of Artacho and his followers to divide the ₱200,000 paid to them by Primo de Rivara, the Spanish governor general, and claimed it should have been sent to him at Hongkong. Subsequently Artacho went over to Hongkong and commenced a suit in the supreme court of Hongkong for an accounting. Then Aguinaldo and two or three of his followers, under assumed names, sailed out of Hongkong and started to go to Europe without having made an accounting. Those are historical facts. What is the use of trying to fool ourselves? What is the use of trying to fool the American people?

Mr. JONES. May I ask the gentleman a question?

Mr. KAHN. I will yield in a moment. Aguinaldo, accompanied by G. H. del Pilar and J. M. Leyba, all traveling under assumed names, went down to Singapore on their way to Europe. At Singapore they learned that war was about to break out between Spain and this country. Then, in violation of their agreement that they would quit the Philippines, they sought the good offices of the representatives of the United States Government and asked to be taken back, and our officials agreed to take, and later on did take, them back. Then, after the American occupation, they claimed that Admiral Dewey had promised them independence, and a new revolution started in the Philippines, this time against the Americans. Admiral Dewey said positively that he had never made any promise of independence, and other officials stated that they had never made any promise of independence. Now I will yield to the gentleman from Virginia.

Mr. JONES. Mr. Chairman, the gentleman from California has made some exceedingly derogatory remarks about the leaders and patriots of the Philippine Islands. He has said that they sold out the liberties of their people to the Spanish Government, and that his charges were historical facts. I want to ask the gentleman if he can vouch a single respectable authority for that statement. Does he know of any history ever written of the Philippines that contains any such statement?

Mr. KAHN. The treaty of Biacnabato speaks for itself. And not only that, but Dr. Dean C. Worcester states the same thing in his work entitled "The Philippines, Past and Present." And, I may add further, these were matters of common report and notoriety when I was in the islands two years after the American occupation.

Mr. JONES. I do not believe that any man who knows anything about the history of the Philippines will believe such a statement.

Mr. KAHN. Is it not a fact that Aguinaldo and several of his followers left there? Is it not a fact that they agreed to receive ₱800,000 on condition that they would never come back into the islands? Is there not the evidence of the lawsuit in Hongkong for the accounting?

Mr. JONES. There is the fact that they received ₱800,000, but it is not a fact that Aguinaldo ever used a dollar of that money for his own purposes.

Mr. KAHN. I did not charge that he did.

Mr. JONES. I think the gentleman did.

Mr. KAHN. I did not. I said there was a suit for an accounting, whereupon he drew out ₱50,000 from the chartered bank, which had become due under the terms of the deposit, and ran away.

Mr. JONES. Is it not a fact that the gentleman said that Aguinaldo and his fellow compatriots sold out their people to the Spanish? That is not true.

Mr. KAHN. What did they agree to take the ₱800,000 for? Why did they leave the Philippines and agree never to come back? These facts are all true.

Mr. QUEZON rose.

The CHAIRMAN. Does the gentleman from California yield to the gentleman from the Philippine Islands?

Mr. KAHN. I do.

Mr. QUEZON. Let me ask the gentleman a question. Is the gentleman informed of the fact that in the treaty of Biacnabato, when it was agreed to give this money to these leaders, it was stated that the Spanish Government was going to give the Filipino people these reforms in the government of the islands that had caused that revolution?

Mr. KAHN. I believe the Spanish Government did agree to inaugurate certain reforms.

Mr. QUEZON. Is it not also true that the Filipino leaders took the money with them to Hongkong, but that Mr. Aguinaldo did not use the money, but kept it in the bank, and then, when Spain did not comply with the terms of the treaty that she would establish the reforms in the government, Aguinaldo went back and used the money to buy guns to compel Spain to comply with the treaty? That is history.

Mr. KAHN. Oh, the gentleman from the Philippines explains the thing in a plausible way.

Mr. COOPER. Mr. Chairman——

Mr. KAHN. I must decline to yield at present. I want to answer the gentleman's [Mr. QUEZON] question. The fact remains that the treaty of Biacnabato was signed December 15, 1897, and only about four months elapsed before Aguinaldo left Hongkong to go to Europe. He did not, so far as my investigation of the matter has been able to discover, apply the money for the purchase of arms. He started for Europe under an assumed name. Dean Worcester quotes Maj. J. R. M. Taylor as saying that "he gave as his reason for departure that he was going to remain under cover until Artacho could be bought off." Aguinaldo went as far as Singapore. When he arrived there the trouble between Spain and the United States had grown to be acute. Then he got into touch, through a newspaper man down there, an Englishman named Bray, with our consul general, Mr. E. Spencer Pratt, who in turn put him in touch with the consul general at Hongkong and with Admiral Dewey. That is how he got back into the Philippine Islands. There is no mystery about it; the facts will be patent to anyone who wants to look into them.

Mr. FESS. Will the gentleman yield?

Mr. KAHN. Yes.

Mr. FESS. Is the statement the gentleman just made any stranger than the facts recorded in the proceedings of the insurgents, the record of which we have, during the time between Dewey's taking possession of Manila and the time that Aguinaldo was taken? Is there anything more strange in the gentleman's statement than that record shows?

Mr. KAHN. There is not.

Mr. Chairman, in the light of these events it is small wonder that the people of the United States readily and fully believed the statements of the Admiral of the Navy as to his refusal to give any promise for Philippine independence. And yet on the mere assertion by Aguinaldo that such a promise had been made to him, he again raised an insurrectionary army in the Philippines. For months he caused bloodshed, and brought ruin and disaster to thousands of his countrymen.

If this bill should pass with its expressed promise of independence, it will be a serious blow to the islands, in my judgment. Capital will refuse to invest in the archipelago. The politicos, or politicians, of the Philippines will constantly agitate for the fulfillment at an early date of the promise contained in the preamble of the Jones bill. Many of us who have visited the Philippines doubt the ability of the Filipino peoples for self-government, at least at any time in the near future. I speak of the Filipino peoples, because the inhabitants of the Philippine Islands are not a homogeneous people. They are divided into many tribes and subdivisions. They speak many different languages and dialects. Although Spain exercised sovereignty over the archipelago for over 300 years, a vast majority of the inhabitants never spoke, and were absolutely unable to speak, Spanish at all. The Filipino peoples are also divided into two great religious classes—the Christians and the non-Christians. The latter number fully a million inhabitants and are themselves broken into many subdivisions. These subdivisions of the non-Christian peoples differ in language, customs, habits, and traditions, and until our occupancy of the archipelago many of them were constantly at war with each other. They had made no advance whatever in the scale of political development, and in many instances were even without tribal government or organization. It is frequently claimed by the so-called anti-imperialists of the United States that the peoples of the Philippines are as capable of self-government as the people of Cuba. Mr. Chairman, conditions in Cuba and the Philippines are entirely dissimilar. The people of Cuba have one language and one religion. There is no fanatical Mohammedan population in Cuba. There are no heathen tribes in Cuba. And yet since Cuba was originally given her independence in 1898 the Government of the United States found it necessary at least on one occasion to intervene between the conflicting elements in that island. I believe it cost the people of the United States between six and eight millions of dollars on that occasion to put down civil strife in Cuba.

Does anyone doubt that civil strife will tear asunder the Government of the Philippines if we should withdraw from the islands and grant their peoples independence? Why, the situation in Mexico will pale into insignificance when compared to the quarrels that will break out between the rival politicos in the Philippines. The troubles of the Filipino peoples and the troubles of the Cubans and the troubles of the Mexicans arise largely through personal politics. Personal politics is the curse of those countries. Mr. Chairman, we ought not to let doctrinaires and theorists lead us into a hideous mistake that is sure to bring misfortune and disaster to the great mass of Filipinos. The demand for independence in the Philippines arises almost entirely from the politicians, or politicos, as they are called. The politicos are supported in their demand chiefly by the Tagalogs. This demand for independence is largely artificial. It is not a real demand. Anyone who knows anything at all about the archipelago knows that the peoples of the Philippines are easily led and influenced.

There are thousands of natives who do not even know the meaning of the word "independence." I have had called to my attention the case of Ruperto Rios, of the Tagalog Province of Tayabas. This worthy in succession promoted himself to brigadier and major general, and then announced himself as generalissimo. He was a cunning bandit who was caught by the Americans, and, after his trial and conviction on the charge of murder in 1910, was very properly hanged. It is told of him that he used to promise as a reward for the commission of any deed of special villainy in which he might be interested a bit of "independencia"—independence. He would show his dupes a box with the word "Independencia" painted on it and declare to them that it contained a supply which had been sent to him from Manila. He never failed to find men who were willing, on promise of the receipt of a bit of this "independencia," alleged to be contained in that box, to carry out any devilry that he might plan. I merely cite the case to illustrate the point that thousands of the natives are entirely ignorant of the very meaning of independence. Indeed, it is a well-known fact that the farther away from Manila one travels the less one hears of independence.

The island of Mindanao, in the south, is the largest of the group. It is peopled principally by Mohammedans and savages. Prior to the advent of the Americans the Moros of that island and Jolo were engaged in piracy, and made frequent excursions to the more northern islands, burning, killing, and carrying off slaves. It is more than likely that under independence this island, left to its own devices, would revert to its former condition and be lost to civilization. Hon. John M. Dickinson, formerly Secretary of War of the United States, visited that island in August, 1910. During that visit Secretary Dickinson, responding to the plea of a Filipino for immediate independence, with consequent control of the Moros, declared the Government of the United States to be unwilling to intrust to the 66,000 Filipinos living in Mindanao the government of the 350,000 Moros residing in that Province. There were four datos, or chiefs, present, with 2,000 of their people, who, representing a population of 40,000 Moros, at the close of the speech of Secretary Dickinson swore allegiance to our Government, and requested that if the Americans ever should withdraw from their country they—the Moros—should be placed in control of it. At the same time they stated that they would begin to fight their northern neighbors as soon as the Americans should take their departure.

The Moros testified to their appreciation of what our Government has done for them, and the four chiefs declared that they were well contented to let matters continue as they are. Why, sir, up to the time of the American occupation of the islands a Filipino dared not go beyond the walls of the city of Jolo, the capital of the Moro people, for fear of losing his life, so bitter was the antagonism between Moro and Filipino.

It is a well-known fact, too, that the Christianized Filipinos have nothing in common with the pagan mountaineers of northern Luzon. They fear and dread the head-hunters of those mountain Provinces. I doubt whether any considerable number of Tagalogs had ever ventured far into the country of the Igorrotes, for prior to American occupation there was constant strife between them. Indeed, a Christian governor of one of the Provinces bordering on the territory occupied by the wild tribes expressed the belief that the only way to treat these neighboring tribes, who numbered about 50,000 souls, was to kill them all. He contended that they were worse than useless. He opposed the expenditure of moneys for their benefit, and contended that by killing them off all questions as to their welfare would be answered forever.

Mr. Chairman, it were well to let the future take care of the problem we have on our hands in connection with our ownership and government of the Philippines. I stated on a former occasion on this floor that our Government, at an earlier period of our country's history, made a grievous mistake in yielding up territory of the United States without a full knowledge of what that step would mean for future generations. I refer to the Oregon country controversy, when the battle cry of the Democratic Party, in the campaign of 1844, was "Fifty-four forty or fight." If we had maintained our position in that controversy and had retained the territory between the forty-ninth degree of north latitude and the southern boundary of Alaska, we would have had no boundary disputes with Great Britain, and that powerful

nation would never have had a seaport on the Pacific Ocean side of the American Continent. Let us not make another mistake of that character at this time.

But there is another reason, a humanitarian reason, why we should not promise to withdraw from the islands for many years to come, and that is this: When our troops took possession of the islands there were thousands of natives who promptly swore allegiance to the Government of the United States. Of course they were not the fiery fighters of the Philippine insurrection. They were a substantial part of the population who wanted peace for their unhappy country. They took no interest in the personal ambitions of men who styled themselves Filipino patriots and deemed that the actuating motive of the latter was largely the lust for office and gain. Then, too, we remember the loyal support given our armed forces by the Macabebe Scouts. These men helped to fight our battles in the Philippines. We owe all of these people protection—protection for their lives and property. The history of the Philippines prior to the advent of the Americans is replete with instances of the summary vengeance visited by those in power upon the luckless heads of those who had incurred the displeasure of the latter. It is not so many years ago since burying their enemy alive was one of the favorite methods of dispatching an adversary. Several generations will probably have to pass off the scene before the animosities engendered during the early days of American occupation shall have been forgotten or forgiven.

Mr. Chairman, I firmly believe that if this preamble to the Jones bill should be adopted and is to express the attitude of our Government toward the Philippines it would be well to let the natives of those islands know in no uncertain language that if we ever withdraw it will not be the policy of this Government to exercise a protectorate over them. The natives should be taught, once and for all, that if we ever leave the islands we will leave them for good. That if we leave they will have to assume all responsibility for their national defense; they will have to protect themselves against the possible encroachments of those countries that are bent on extending their colonial possessions. They must be taught that they will have to maintain their own army and their own navy to insure their independence if the forces of the United States once take their departure. I believe, sir, that if this fact is brought home to the Philippine people without equivocation and with proper emphasis the politicos or politicians of the archipelago, whose principal stock in trade to-day is a demand for Filipino independence, will find themselves like Othello—their occupation gone. [Applause on the Republican side.]

Mr. JONES. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. BORLAND].

Mr. BORLAND. Mr. Chairman, if this debate has demonstrated anything to the American Congress and to the American people, it has demonstrated the scant information upon which we are attempting to legislate upon the rights and destinies of 7,000,000 people. Yet we have assumed for 14 years control of the most intimate and internal affairs with such scarcity of knowledge and information as has been brought out here in this debate. As a climax to that farce comes now the gentleman from California [Mr. KAHN] with his 13-year-old information, and tells us how bandits lived there 13 years ago when he was familiar with the islands, and when the first insurrection had been suppressed and the first boatload of American school-teachers had just landed in the islands——

Mr. KAHN. Will the gentleman yield?

Mr. BORLAND. I will.

Mr. HENRY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Texas makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and two Members present, a quorum. [Applause.]

Mr. BORLAND. Mr. Chairman, I yield to the gentleman from California.

Mr. KAHN. I wanted to give the correct date. The incident I spoke of in connection with the trial and execution of Ruperto Rios occurred in 1910, four years ago.

Mr. BORLAND. Yes; but I was warranted in saying that the gentleman began his address by saying it was 13 years ago to-day when he left the islands——

Mr. KAHN. No; when I landed in San Francisco from the islands.

Mr. BORLAND. When he landed in San Francisco from the islands, the day——

Mr. KAHN. Has the gentleman ever been in the islands?

Mr. BORLAND. I do not claim the information which the gentleman claims—the day that the first insurrection had been suppressed and the first boatload of American teachers had landed. It is on that kind of information we are to deny these people the right of government.

Mr. KAHN. Mr. Chairman, the gentleman, with the persistence of gentlemen on that side of the House, misquotes me and misstates the facts.

Mr. BORLAND. I have yielded to the gentleman, and will be glad to do so. Mr. Chairman, I do not claim to have given the care and attention that men who have visited the islands or gentlemen on our committee have given to it. I concur with the judgment of the committee that the time has now come to take a step——

Mr. KELLEY of Michigan. Will the gentleman yield——

Mr. BORLAND. That, according to the majority report and the minority report, has been the declared policy of this Government from the acquisition of the islands. Now I yield to the gentleman from Michigan.

Mr. KELLEY of Michigan. Does the gentleman know whether the President of the United States has had a personal representative visit the Philippine Islands and whether or not a report has been made and the nature of the report on this question?

Mr. BORLAND. I do not; no. But the point I wish to make is this: That we have assumed to govern for 14 years a distant people, having their own aspirations, their own local needs, and their own problems to solve.

And we have assumed to-day, with no more information than we have seen disclosed in this debate, and the gentlemen of the minority are insisting, that we continue in the same attitude toward those people and toward the world, and to continue to govern with no more agreement upon the facts upon which our legislation is based than there has been shown here on this floor.

Mr. HUMPHREY of Washington. Will the gentleman yield?

Mr. BORLAND. Yes.

Mr. HUMPHREY of Washington. Are you in favor of the independence of the Philippines; and if so, when?

Mr. BORLAND. I will come to that.

Mr. HUMPHREY of Washington. Why was it not put in your bill? While you have control of the Government and all its branches, why do you not introduce a bill that squares with your theory?

I think this bill does square with our theory, and I think it comes so near squaring with the promises held out by the present minority when they were in power that it puts them in a very embarrassing position. The great difficulty, I want to say to the gentleman, is that we have continued, on account of what has been recognized as a political mistake of the former majority in control of this Government, the policy of the indefinite retention of the islands, with an undeclared policy, which, in my judgment, is the worst political mistake we can make. I want to say that I do not think if it had not been made a cardinal political principle of the platform of the gentleman's party, that that mistake would never have been persisted in or be seriously persisted in now.

Mr. HUMPHREY of Washington. On this side of the House we have declared unequivocally that we are not in favor of independence. You have talked independence, and now are you in favor of it, and will you put something of that kind in your bill?

Mr. BORLAND. This bill does exactly what I think at this juncture ought to be done. It enlarges the power of the Filipino people to govern themselves, places a measure of responsibility upon them, to which, if they respond as it is expected they will respond, independence ought to follow. That is my idea about that bill, and I think that is the policy of the gentlemen who drew it. I concede, and I am glad to concede, that American occupation of those islands has been productive of lasting good to the people of the islands. I am glad to know that the Resident Commissioner from the Philippines frankly and boldly declares that American occupation has resulted in substantial improvement in the general condition of his people. And I want to say that, proud as I am of that fact and confident as I was that that would be the result and has been the result wherever the American flag has flown, I can not deny to the Filipino people themselves the just degree of credit they have in the result. I do not believe that that result could have been accomplished unless the material of citizenship was in the islands upon which the improvement could be made.

Mr. FESS. Will the gentleman yield?

The CHAIRMAN. Will the gentleman yield to the gentleman from Ohio?

Mr. BORLAND. Yes.

Mr. FESS. Do you agree in the theory that if we had not been in the islands, but had turned them over to the Filipinos, they would be just as far advanced now as they are?

Mr. BORLAND. No. And I want to say to my good friend from Ohio that it is utterly immaterial whether we agree with the Commissioner on that point or not. But this point is material, that my respect for the Resident Commissioner of the Philippine Islands, whom I highly respect and love, would be lessened if he did not make and believe such an assertion. [Applause on the Democratic side.] If he did not believe that his own people, left to themselves and freed from Spain or any other power, would have developed better and faster than they have under a foreign power, I would not hold the respect for him and I would not treasure the regard for his patriotism that I now do.

Mr. FESS. Will the gentleman yield again?

Mr. BORLAND. Yes. Whether it is true or not is, in my judgment, utterly immaterial.

Mr. FESS. Would you be willing to proceed as a legislator on the basis that he said that because he ought to do so, whether it is true or not?

Mr. BORLAND. Yes; and one reason why is because a race that will produce a man that will take that high stand of patriotism is producing men that will make self governing citizens.

Mr. GREENE of Vermont. Would the gentleman hold, it having been proved to the contrary by history as we have read it, that a country that has made no progress of its own in about 300 years would in 10 years reach that same altitude of social progress that it took our race 1,000 years to reach?

Mr. BORLAND. There are many assumptions in the gentleman's contention, and I do not agree with the premise. I am not prepared to say that they have not made any progress in 300 years.

Mr. GREENE of Vermont. Comparatively.

Mr. BORLAND. I can not agree with all of the assumptions in the gentleman's premises.

Mr. GREENE of Vermont. I did not expect you would do so.

I am just as proud of the results obtained there by the Americans as my friend, the Resident Commissioner, is of the contribution to those results made by the Filipino people, and he and myself are good friends on that score. Whether the Americans contributed the most or the Filipinos contributed the most, we have a right to our own opinion.

Mr. GORDON. Is that 20-mile automobile road that the Americans built over there one of the things of which you are proud?

Mr. BORLAND. I want to say to my friend that he recalls a point I want to make, and that is that carpetbag government is the worst species of government we can engage in. I believe in local self-government by the consent of the governed, so that there is always a check upon the action of those in power by those who are on the spot and know what is going on. I am free to say, although I hold a share technically in the responsibility for that road, I do not know anything about it, and I do not believe any American Congress can regulate local affairs of that kind, and that is one of the reasons why I am in favor of this bill.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. BORLAND] has expired.

Mr. BORLAND. Mr. Chairman, I ask the gentleman from Virginia [Mr. JONES] to yield me five minutes more.

Mr. JONES. I yield five minutes more to the gentleman from Missouri.

Mr. JOHNSON of Washington. I desire to ask if the gentleman's party did not specifically declare in its platform against a carpetbag government in Alaska and then appoint nonresident officials there this year?

Mr. BORLAND. I was about to say this, Mr. Chairman: That while I have no familiarity with the conditions in the Philippine Islands, and while I recognize that if I were charged with the responsibility and insisted upon retaining them I ought to have some intimate knowledge of the conditions there, I am not in a position to discharge the powers of local legislation upon those islands without that knowledge, but it ought to be committed to those who are on the ground and know what the problems are.

But I have some knowledge of conditions in one of the other colonies of this country—Porto Rico—and I know that the advance of the Porto Ricans into a control over their own government has had the best steadying and developing effect of any step ever taken by the American Congress. I think the gentleman from Ohio [Mr. FESS] was unfortunate in his reference to the Louisiana Purchase, even if the conditions were the same in other respects and it were contiguous territory.

As a matter of fact we have pursued unvaryingly in this country three steps of developing acquired territory: First, we put it under military rule; second, we organized a civil government of a limited character, with an elective lower house and an appointive council and governor; third, we established two elective houses, with a governor only retained by the national power, and the next step beyond that is statehood or independence.

Now, unless statehood is the legitimate aspiration of any section of acquired territory, independence ought to be their legitimate aspiration. If the gentlemen can say that this policy of indefinite retention, with an undeclared policy, has been beneficial to the Philippine Islands, they are entitled to insist upon its continuance. But if they want to go back to the original doctrine of the Republican Party, that ultimately the Filipino people must govern themselves, then they must point the way either to independence or to statehood. If they can not point the way to statehood, to becoming an integral part of this great Nation of ours, then the Filipino people have the right to work out their own destiny and the attainment of their own racial and national aspirations.

Mr. TOWNER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Missouri yield to the gentleman from Iowa?

Mr. BORLAND. I yield to the gentleman.

Mr. TOWNER. I would like to ask the gentleman from Missouri if he would apply that rule to Hawaii and Porto Rico?

Mr. BORLAND. I would apply it to Porto Rico. I have not any familiarity with Hawaii. I anticipate final statehood for Porto Rico. I have no hesitation about saying that.

Mr. TOWNER. What do you say about Hawaii?

Mr. BORLAND. I do not know about Hawaii.

Mr. TOWNER. You know it belongs to the United States.

Mr. BORLAND. Yes; I know it belongs to the United States, and I know that the Philippine Islands belong to the United States.

Mr. TOWNER. And that it is situated thousands of miles away from the United States.

Mr. BORLAND. Yes. As I understand it, we have responsibilities resting upon our shoulders that we imperfectly meet, and I think the gentleman from Iowa must admit that.

Mr. Chairman, we have heard a great deal of the jingo talk that used to be popular about 10 years ago, about hauling down the American flag. That used to be the prime art of the demagogue when he wanted to defend the attitude of the administration toward the Philippines, to get up and whoop and hurrah about the dishonor of hauling down the American flag. I will tell you where the national honor is more involved. It is in making a success of our control of those countries. There is no dishonor in hauling down the American flag, but there is dishonor in keeping up our domination over a people whose status we refuse to recognize; and if we want to point to the glory of this country, we point not to the jingo talk about not hauling down the American flag, but to the solemn declaration we have made against a war of aggrandizement and acquisition of territory. [Applause on the Democratic side.] And if we can convince ourselves and the world that we were sincere and honest when we said we entered into that war not for aggrandizement or the acquisition of territory, but that we purposed to carry out in good faith the destiny of the people who fell within our hands, there is more honor in the redemption of that solemn pledge than in all the jingo talk about not hauling down the American flag that any demagogue ever indulged in. [Applause on the Democratic side.]

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. BORLAND. I yield back any time I have remaining, Mr. Chairman.

Mr. JONES. Mr. Chairman, does the gentleman from Iowa desire to use any of his time?

Mr. TOWNER. Yes. I yield 10 minutes to the gentleman from Minnesota [Mr. STEENERSON].

The CHAIRMAN. The gentleman from Minnesota [Mr. STEENERSON] is recognized for 10 minutes.

Mr. STEENERSON. Mr. Chairman, the title and preamble of the bill reads:

A bill to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands.

Whereas it was never the intention of the people of the United States in the incipiency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and

Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without in the meantime impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence: Therefore—

And so forth.

The question before us can be considered a domestic question only in a limited sense, for it is so closely connected with our responsibilities to the civilized world and with our relations to other nations that in a larger and truer sense it is international and of international concern.

I regret that this bill has been framed in a partisan spirit and has been brought in as a party measure, under gag rule, in order, as it is proclaimed, to carry out the pledges of a party platform four times repeated and four times rejected by a majority of the people of the United States. I commend to the consideration of the majority party in this House and to the American people the declaration of the Republican platform on this subject in 1912, which says:

The Philippine policy of the Republican Party has been and is inspired by the belief that our duty toward the Filipino people is a national obligation which should remain entirely free from partisan politics.

How different the attitude of the Democratic Party! At the first opportunity after the close of the Spanish War and the acquisition of the Philippines, in the platform of 1900, they denounced the acquisition of the Philippines as un-American and declared for their immediate independence. The substance of this declaration was repeated in 1904, 1908, and 1912. Their last declaration is as follows:

We reaffirm the position thrice announced by the Democracy in national convention assembled against a policy of imperialism and colonial exploitation in the Philippines or elsewhere. We condemn the experiment in imperialism as an inexcusable blunder, which has involved us in enormous expenses, brought us weakness instead of strength, and laid our Nation open to the charge of abandonment of the fundamental doctrine of self-government. We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established, such independence to be guaranteed by us until the neutralization of the islands can be secured by treaty with other powers.

In recognizing the independence of the Philippines our Government should retain such land as may be necessary for coaling stations and naval bases.

This bill is brought forward as an attempt to fulfill these platform promises, although it falls far short of that. I will not go into an examination or criticism of the body of the bill; that has been done very ably by others, but I want to call attention to the title and preamble. The title is to declare the purpose of the people of the United States as to the future political status of the Philippine Islands and to provide for an autonomous government for those islands. There is not, however, one word in the bill that declares anything as to the future status of the islands, except by inference and innuendo. The preamble reads:

Whereas it was never the intention of the people of the United States in the incipiency of the War with Spain to make it a war of conquest or territorial aggrandizement; and

Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein.

It will be observed that these declarations relate to the past, and not to the future. The War with Spain was undertaken as a duty to humanity, but it did result both in conquest and in territorial expansion and aggrandizement; in fact, these were the necessary consequences of the war, and no one can say that the intention of the American people was contrary to these results. We were victorious and acquired the Philippines, Guam, Cuba, and Porto Rico. Our declaration of war against Spain contained these provisions in reference to Cuba:

That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island, except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people. (Apr. 20, 1898.)

Note that this declaration of intention as to the exercise of sovereignty by the American people was carefully limited to the island of Cuba, and if Congress had at that time intended not to extend its sovereignty in any event over any other Spanish territory it would have so declared. I object to having this clause enacted more than 16 years after the fact. I do not believe that the Democratic Party as represented in Congress to-day is either authorized or competent to say what the intention of the American people was at that time.

The second clause also relates to the past purposes of the people of the United States. I think it is a safe rule to scrutinize with great care every bill, whether it be in the form of a preamble or an enactment, which relates to past events. Congress, being possessed of the legislative power only, should, as a rule, confine its enactments and declarations to the future. It is the very essence of legislative power that it looks to the future. It is the very essence of judicial power that it looks to the past, and the legislature can not authoritatively declare what the law is or has been, but only what it shall be. It is not competent for Congress now to declare what the purpose of the United States was with regard to the Philippine Islands 16 years ago. Whatever that purpose was we can not change it. It must be determined by the facts of history.

The Republican platform for 1900, more than a year after the ratification of the treaty of Paris, by which we acquired the Philippines, was as follows:

In accepting by the treaty of Paris the just responsibility of our victories in the Spanish War, the President and the Senate won the undoubted approval of the American people. No other course was possible than to destroy Spain's sovereignty throughout the West Indies and in the Philippine Islands. That course created our responsibility before the world and with the unorganized population whom our intervention had freed from Spain to provide for the maintenance of law and order and for the establishment of good government and for the performance of international obligations.

Our authority could not be less than our responsibility, and wherever sovereign rights were extended it became the high duty of the Government to maintain its authority, to put down armed insurrection, and to confer the blessings of liberty and civilization upon all the rescued peoples.

The largest measure of self-government consistent with their welfare and our duties shall be secured to them by law.

Upon this platform President McKinley ran for reelection and received 7,207,923 votes, as against 6,358,193 cast for the Democratic candidate, who demanded the immediate independence of the Philippines and denounced the Republican policy. Four years later Theodore Roosevelt was elected over Parker by more than a million and a half majority on the same issue. At the last election Wilson received 6,293,019, and Taft and Roosevelt, who both favored the Republican position on the Philippine question, received 7,604,463 votes, or a majority of 1,311,444. It is therefore manifestly erroneous to say that the American people, or a majority of them, have ever favored the policy of the Democratic Party either as declared in their various platforms or as attempted to be enacted in this bill.

While the Democratic Party might now, through their control of Congress, appropriately make a declaration as to the future policy of the Nation in regard to the Philippines, they have no right to make a retroactive one as to what the policy was when they did not control it. What do they say here? They say it never was the intention, at the incipiency of the War with Spain, to make it a war of "conquest" or "territorial aggrandizement." The meaning sought to be conveyed seems to be that these despicable results were unintentionally inflicted upon an innocent people by our armed forces, and that we now disclaim them and desire to undo the work as far and as soon as possible! That, it seems to me, is what most people will understand by it. I wonder what the American people will think of this. The Philippines cost us much blood and treasure. Many of the brave sons of your State and mine fought and suffered there, and many of them are sleeping in lonely graves in those distant lands. I wonder what they would say if they could come back to earth and hear these things. They at least believed they were fighting for a just cause, and perchance with their dying breath chanted the beautiful words of the Battle Hymn of the Republic:

In the beauty of the lilies Christ was born across the sea,
With a glory in his bosom that transfigures you and me,
As He died to make men holy, let us die to make men free,
While God is marching on.

If they could come back now, would they not be surprised to hear that they did something of which the Nation is ashamed and disclaims any intention of doing?

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. STEENERSON. Will the gentleman from Iowa give me more time?

Mr. TOWNER. Yes.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. STEENERSON. Mr. Chairman, conquest, as well as territorial aggrandizement, is the usual and ordinary result of war, and must be held to have been in the contemplation of every belligerent. We certainly undertook that war with the intention of winning, which meant to conquer and conquest—conquest against the dark forces of anarchy and savagery and for human liberty and civilization. The fact that we intended to use the power gained by conquest for the benefit of the people concerned and the advancement of human liberty does not change the nature of the act. It was conquest nevertheless, but honorable and praiseworthy, because undertaken in the interest of liberty and humanity.

We hurl back the insinuation against our national honor and still sing:

Then conquer we must when our cause it is just,
And this be our motto, "In God is our trust!"
And the Star-Spangled Banner in triumph shall wave
O'er the land of the free and the home of the brave.

[Applause on the Republican side.]

The CHAIRMAN. If there is no further debate, the Clerk will read.

Mr. JONES. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. ANSBERRY].

The CHAIRMAN. The gentleman from Ohio [Mr. ANSBERRY] is recognized for five minutes.

[Mr. ANSBERRY addressed the committee. See Appendix.]

Mr. TOWNER. I yield 10 minutes to the gentleman from Pennsylvania [Mr. AINEY].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. AINEY] is recognized for 10 minutes.

Mr. AINEY. Mr. Chairman and gentlemen of the committee, I am quite in accord with those gentlemen who have said that the Philippine question should be considered apart from partisan politics.

I am not so much concerned at the present moment in party declarations as I am concerned, and deeply so, in determining my duty as an American citizen, presently charged by an American constituency with the performance of a duty on the floor of this House with respect to a measure the influence of which is likely to prove of so much importance in the present and of so far-reaching consequence in the future.

I have therefore sought for all available information and tried to consider the question from all the several angles from which it has been presented.

We are not agreed upon a statement of the facts; we are not agreed as to the materiality of some of these facts; we are not harmonized as to the standing or authority of those whose opinions are quoted nor upon whose observations we may rely.

A wide difference of opinion as to our duty with respect to the Philippines has developed, and greater still is the divergence when it comes to a consideration of the best method by which our duty may be performed.

I regret exceedingly the extended range of this debate, developing so many phases, political and historical, economic and altruistic, and even invading the realm of our future as likely to be affected by the great world movements in the coming days.

This regret is not because these subjects are not involved in the Philippine question as a whole, but because they carry the mind over such a wide extent that it is not possible within the confines of legitimate debate to adequately analyze or fairly discuss them.

Surely I can not be accused of presenting a partisan witness if I shall ask you to listen to the words of a distinguished member of the present Cabinet, one who has traveled extensively in the Philippines and carefully observed the varied conditions. While I have indulged in the privilege of differing with him on many political questions, of him personally I have the highest regard; his statements covering his observations would for me be a sufficient guaranty of their accuracy. I present his statement to you for the purpose of seeing if we may not from a disinterested and, at least from my standpoint, nonpartisan expression, arrive at some important, salient facts. In an address which he made at Lake Mohonk, N. Y., but little over two years ago, he spoke of his trip to the Philippines and of his observations of the people on his travels into the interior. Of some of these Filipinos, he said:

He does not know how to read or write. He can not speak the language of the man 10 miles down the railroad track. He can not speak the language of the man 25 miles up the railroad track. He speaks no Spanish; he speaks no English; he speaks his native dialect, and that is all. His children are beginning to be taught English now. We go up the track 25 miles and we come into the other Province and another language. And now, passing on to the end of the road and taking the Government automobile up to the hilltop, we begin to find the non-Christian tribes. I will not take time to describe their clothing, although it is so limited that I might do so without losing time.

Mr. FESS. Will the gentleman yield there?

Mr. AINEY. I yield to the gentleman.

Mr. FESS. Whom is the gentleman quoting?

Mr. AINEY. I thought I would reserve that statement until the conclusion of the reading. I think it will interest some of these gentlemen to do that.

He continues:

These half-naked men are men, these mountaineers. * * * and you begin to get a faint idea that there is no such thing as a Filipino people. A man who had courage to say that there was, in what we ordinarily mean by that word, such a thing as one Filipino people would say what was either a very ignorant thing or a very ridiculous thing.

In one day, through four languages, from perhaps the cultured people of the Tagalog Tribe in Manila up to the cultured or partly cultured, dog-eating and hunting Igorrotes, is the unified people of whom we read in the speeches of some Tagalog politicians. Here is a task which is simply this—the making of a people.

We have not here to deal with an Indian tribe that must be educated from childhood into manhood; we have here the absolute act of creation of a people, and that creation is going to be an act of slow growth if it is to be a permanent one.

I am sure he had not in mind the distinguished Delegate from the Philippine Islands, who has so recently and eloquently addressed you, and therefore he was not the one in particular to whom reference is intended in the address, which continues:

The Tagalog people—you will observe I will not say Filipino people, I do not recognize that there is such yet; I hope there is coming to be a Filipino people—the Tagalog people excel in all the arts of expression. A political Tagalog orator would bring tears from a wooden Indian! He would apply the principles of the Declaration of Independence with a sonority and comprehensiveness that the fathers of this Republic never dreamed of, and he will believe probably that so long as he himself can govern the toa, and so long as Igorrotes may be beneath his care and the Negrito may be his subject, and so long as somebody, somewhere or other, will keep the fierce and fanatical Moro off his hands, he will believe in independence. But what folly it is that people speaking 20 or more diverse languages, differing in customs, in habitat, some lowlanders, some mountaineers, through heathenism to paganism, through Christianity to Mohammedism, 1,500 miles apart, some peaceful, some fanatical, some warlike, others peasant farmers—what a pitiful idea it is that this mass, united by a law passed twelve or fourteen thousand miles away, should be turned loose upon the world to be governed by a minority of their own number! It is perfectly inconceivable to me that anybody knowing even the superficial facts should venture to think for a moment that the so-called Philippine Republic aimed at to-day by certain publicists in India would have either life or liberty!

* * * * * * *

Now, one final suggestion as to the Philippine policy. I believe that the question of separate independence of the Philippine Islands should be taken out of American politics until such time as, say, two-thirds of the adult male population of those islands are able, under the present very simple qualifications for voting, to exercise a deliberate judgment either against or in favor of it.

I am sure that the gentlemen of this House will be interested to know that these are the words of the Hon. William C. Redfield, now Secretary of Commerce. [Applause.]

Mr. CLINE. Will the gentleman yield?

Mr. AINEY. I will.

Mr. CLINE. The gentleman has done some traveling lately in the Orient. I would like to inquire if he thinks that is a fair and honorable statement of the conditions there.

Mr. AINEY. If the gentleman is suggesting by his inquiry that I visited the Philippine Islands, I want to say that I did not have that opportunity.

Mr. CLINE. The gentleman gives full credence to the statement?

Mr. AINEY. I certainly do, knowing Mr. Redfield.

Mr. CLINE. Is the gentleman as favorable to the economic statements of Mr. Redfield as he is about the conditions in the Philippines?

Mr. AINEY. I would accept Mr. Redfield's statements of fact at any time and place; nor does it in anywise lessen my high personal regard for him or his opinions that I disagree with Mr. Redfield's conclusions with respect to the tariff. [Applause on the Republican side.] Does that answer the inquiry of the gentleman?

Mr. CLINE. Yes. I wanted to know if the gentleman was in harmony with Mr. Redfield's economic suggestion.

Mr. AINEY. I accept unquestioningly Mr. Redfield's statement of facts, because I believe the distinguished gentleman who occupies a position in the President's Cabinet is one of the ablest men in that Cabinet, and that he would not for a moment lend himself to a misstatement of conditions as he saw them. I disagree with him very radically in some of his political conceptions. Let me now present another statement of facts which I believe to be uncontroverted and to my mind of vital importance.

The First Philippine Assembly was elected in 1907. Out of a population of 8,000,000 there were but 98,257 votes cast.

At the election in 1909 there were 192,975 voters, being less than 3 per cent of the population.

At the election in 1912 there were registered 248,154; only 235,786 persons voted. Of those who voted but 81,916 possessed the requisite educational qualifications. The other voters came in on property qualifications, or because they had held office under the Spanish régime. The proportion of participating literate electors to the population in the territory affected was 1.47 per cent. Whatever the cause, and without for the moment discussing who is responsible for the condition, the fact remains that at the present time an almost infinitesimal number of Filipinos are participating in the election of members of the legislature (assembly), which we have granted them. That legislature, therefore, can not be said to have yet attained the position of a body representative of the Filipino people.

Strictly speaking, it represents but 250,000 electors out of a total population of 8,000,000.

I am concerned as to the people who are not a part of that small electorate, the great mass who do not or can not vote.

Until the United States by education and attention has taught this immense majority of nonelectors how to vote, and secured them in the right, it has not fulfilled its duty.

The conferring of more power and authority at the top is wrong construction; we must build from the bottom. It is not now so much the question of opening of high positions to and conferring more authority upon the 250,000 electors as to giving our attention to the overwhelming numerical majority of non-voters now having no part in the function of government.

Mr. Chairman, I am opposed to this bill because it violates safe and sane fundamental principles. It proposes to weaken the Federal authority of the Federal Government without relieving that Government of responsibility.

In governments responsibility and authority must go hand in hand. To retain responsibility while yielding authority is inane. To disturb the equipoise between them is unwise.

I may not in the brief time at my disposal do more than hint at the marvelous accomplishments under American control, nor the peculiar aptitude shown by the Filipino.

If, however, this splendid work of the American Government is not completed, it ties its hands; it retains the right to veto bad legislation, but has no power whatever to enact or enforce good.

If there be any further duty owing by the American Government to the Philippine peoples, it is one of construction. This bill does not meet that need, because its emphasis is directed toward strengthening the hands of an already powerful though small directing class (gente illustrada), which through a small electorate, 250,000 voters, is and would remain in control of the legislative body. The true place of emphasis should be to create a strong, reliable middle class, both capable and having the right of franchise and desirous of exercising it.

A third fact, which I think will not be controverted, shows light upon the attitude of the numerically small gente illustrada, or directing class.

When in 1906 the Members of Congress visited the Philippines, the argument advanced in a memorial presented to them for immediate independence was:

> It is undeniable that there exists in the Philippines in sufficient numbers the so-called "directing class," a small portion of which is employed by the present government in all the branches of administration, cooperating actively and effectively with the government in its gubernatorial labor. If the Philippine Archipelago has a governable popular mass, called upon to obey, and a directing class in charge of leading, it then has conditions to govern itself by itself. These are the only two factors, without counting the casuals, who determine the popular capacity of a country. The directing class is the entity that knows how to lead, and the popular mass is the entity that knows how to obey.

Of all the gentlemen favoring this bill, the gentleman from the Philippines sees it in its true light. He favors it because it weakens the Federal control. His advocacy does not rest upon educational advantages accruing to the Filipino by larger opportunity to participate in the functions of government.

It is but the wedge upon which he and the other members of the gente illustrada, elected by 250,000 votes, propose to strike their blows which shall ultimately bring the split.

In an article which the gentleman from the Philippines recently published in his magazine is this:

[From the Filipino People, July, 1914, p. 16.]

> That, both now and ever, it will be the duty, as it undoubtedly is the intent, of all Filipinos to continue undiminished effort for the actual practical establishment of independence, free of all foreign control. We take for granted, and we once again solemnly pledge, both to the Filipino people and to those American citizens who have steadfastly supported the cause of free government, that there shall be no cessation or intermission of our efforts to secure the independence of the Philippines, either now or in the future, whatever Congress may do or may fail to do.

He takes the position that the people of the Philippines are capable of self-government, entitled to it, and need no assistance from the Federal Government, and therefore his position is perfectly consistent. But I can not conceive for a moment how other gentlemen can argue that the Government of the United States has further responsibility with respect to establishing conditions in the Philippines, which will lead to the highest and best in that country, and placing them so that they may be capable of self-government, and then support this bill which will deprive the United States of every vestige of authority for the accomplishment. If the American Government has any responsibility, it is along lines educational, political, and industrial to build these people up, and yet you are by this bill taking that authority away from yourselves and not relieving yourselves of the responsibility.

Mr. CLINE. Will the gentleman pardon me for another interruption?

Mr. AINEY. Surely.

Mr. CLINE. Has it not been the theory not only of the Democratic Party in this House but also the theory of the Republican side of the House that autonomy ought to be extended to the Filipino people as rapidly as they were capable of exercising it?

Mr. AINEY. I think perhaps that may be.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. TOWNER. I yield to the gentleman three minutes more.

Mr. CLINE. If that be true, is it not a proper thing to extend that autonomy politically so that they may demonstrate whether they are capable of running their own affairs?

Mr. AINEY. The answer to that is, as stated by the gentleman from the Philippine Islands, that they do not need any such demonstration; it has already been made. The demonstration which is needed is not by giving larger legislative authority, which will be lapped up as quickly as a saucer of milk by the "gente illustrada," but by giving the great mass of the people—common people, if you please—who are admittedly without vote or say in the government, some part in its affairs. They must be educated and inspired both to know how and to exercise their part in any Philippine government. If that government shall be of the kind contemplated by the American people for them, it is a combined educational, sociological, economic, and political problem which confronts them. It can not be solved by law; it may be by schools.

Another fact appears in School Statistics Report of the Bureau of Insular Affairs, Philippine Islands, Brig. Gen. Frank McIntyre, Chief of Bureau, page 62:

American teachers	664
Philippine teachers	7,699
Population, excluding Moro Province, census of 1903	7,293,997
School population	1,215,666
Average monthly enrollment, 1911–12 (being 33 per cent of the school population, or 5 per cent of the total population)	395,075
Total number of schools	3,685
The school population is divided—	
Secondary students	3,599
Intermediate-school pupils	24,458
Primary-school pupils	367,018

Lastly, Mr. Chairman, I am opposed to this bill because it fosters a condition which we are all seeking to avoid. I admit very frankly that in the Philippines the small but active "directing class" would like independence. It would be valuable to them. It would, in my judgment, be independence for them, but it would not be for the millions of inhabitants of that country just emerging from ignorance.

Anyone following the affairs of the Philippine Islands must know that every American in official station, no matter how unimpeachable his name or high his character, has been attacked and sought to be discredited by this small band of Filipinos unless he became an advocate of their demand for independence.

This bill is another step in arraying the "directing class" against the American Government, not that they have antipathy to the people of the United States, but the unrestrained control of 8,000,000 of people and the richest islands of the world by a mere handful of men is a stake well worth playing for, and upon it is based this vociferous demand by them for independence.

You are now seeking to put in the hands of 250,000 Filipino electors the power to make laws without any power to control what those laws shall be. Oh, yes, you reply, we still have the veto power; but there is no constructive power in a veto; it is merely negative; and if the responsibility still rests upon us to aid the Filipino people, we should have legislative control over that government so long as responsibility rests upon us. You have given the Filipinos one legislative branch of the government where they may originate laws, and now by appointment they have a majority in the other branch. They have the opportunity to make every law which in their judgment would lead to the betterment of their people, and you have thereby already limited to quite an extent the authority of the Federal Government.

Mr. JONES. Will the gentleman yield?

Mr. AINEY. Yes.

Mr. JONES. Did not the gentleman from Illinois, the leader of the minority, Mr. MANN, say that when the bill came up under the five-minute rule he proposed to offer amendments giving them much more power and authority than this bill gives them?

Mr. AINEY. I heard him make that statement, and I have no doubt he will do it, but the authority will be along differ-

ent lines than that proposed in the bill. I am not opposed to giving them authority. They have a wide range in municipal affairs; I am glad that they have constables and justices of the peace. I am pleased that there are judges and professional men among them. That is along the educational line, but now you propose to cut the very cord that holds the Stars and Stripes over that country, and I am opposed to it. [Applause on the Republican side.]

Mr. TOWNER. Will the gentleman yield?

Mr. AINEY. Yes.

Mr. TOWNER. Has it not been the policy of the Republican Party from the first to extend, even more rapidly than probably they were capable of receiving and using, the autonomy, as the gentleman from Indiana calls it?

Mr. AINEY. We have undoubtedly done that.

Mr. TOWNER. Giving them self-government and home rule.

Mr. AINEY. Yes; but what I am trying to point out is not a step toward autonomy, it is a step toward oligarchy, and deprives this Government of any authority to control or interfere, whereby the unprotected masses of Filipinos might be brought within the beneficent privileges which we have always contemplated should be theirs. I am opposed to being placed in a position where we can not engage in a constructive policy or aid in the upward progress of the Filipino people. [Applause on the Republican side.]

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. TOWNER. Mr. Chairman, I yield 15 minutes to the gentleman from North Dakota [Mr. YOUNG].

Mr. YOUNG of North Dakota. Mr. Chairman, the treaty of peace of Paris was concluded December 10, 1898. Almost two years thereafter there was another treaty concluded with Spain by which the United States acquired the title to some islands in the Jolo Sea. The second treaty was concluded in November, 1900, and the main portion of that treaty provides that:

> Spain relinquishes to the United States all title and claim to title which she may have had at the time of the conclusion of the treaty of peace of Paris to any and all islands belonging to the Philippine Archipelago lying outside the lines described in article 3 of that treaty, and particularly to the islands of Cagayan Sulu and Sibutu and their dependencies, and agrees that all such islands shall be comprehended in the cession of the archipelago as fully as if they had been expressly included within those lines.

Now, the title to those islands in the United States is just as good as our title to Florida or to Alaska, and it seems to me that we should in considering this bill at this time do nothing to abridge our rights to do with these particular islands in the future as seems best shall be done as the future unfolds itself. I believe it will be a grave mistake at this time to include those islands with the Philippine Islands proper in a quitclaim deed that will forever foreclose our even considering the advisability of retaining them, if that should become important in the future I will state, too, that a quibble as to the consent of the governed can not be very well introduced with respect to them, because only one of the islands was inhabited at the time we obtained title to them, and the 50 or so people who lived on that one inhabited island had no organized government whatsoever, and were independent. In the matter of language, some of them speak Malay and some Sulu.

Mr. JONES. May I ask the gentleman a question?

Mr. YOUNG of North Dakota. Certainly.

Mr. JONES. Does the gentleman say there is only one island in the Philippines that was inhabited at the time they came into our possession?

Mr. YOUNG of North Dakota. Only one island described in the second treaty concluded with Spain in the month of November, 1900.

Mr. JONES. That only one was inhabited?

Mr. YOUNG of North Dakota. Only one.

Mr. JONES. Which one was that?

Mr. YOUNG of North Dakota. Cagayan Sulu, which was some 8 miles long and 4 miles wide. That was the only island inhabited at the time, and, according to Congressman MILLER, of Minnesota, who recently made an exploration of all these islands, it is the only island occupied or inhabited at this time.

Mr. JONES. I do not want to take up more time of the gentleman, but I am utterly astounded at the gentleman's statement.

Mr. YOUNG of North Dakota. Does the distinguished chairman of the Committee on Insular Affairs mean to say that the islands described in the second treaty made with Spain, in November, 1900, are all inhabited, or were at the time we acquired them?

Mr. JONES. I do not remember what islands were described in that treaty, but I got the idea from the gentleman's statement that he was referring to one of the Philippine islands. If I have misunderstood the gentleman——

Mr. YOUNG of North Dakota. The only islands I attempted to describe were the islands in the Jolo Sea, described in the treaty with Spain, from which I quoted.

Mr. JONES. Does the gentleman say he means the islands in the Jolo Sea, or north of Luzon?

Mr. YOUNG of North Dakota. Well, I have made the description of them as clear as I could.

Mr. JONES. I beg the gentleman's pardon. I may have misunderstood him.

Mr. YOUNG of North Dakota. I made it is plain as the English language describes it in the second treaty. The second treaty is referred to in the bill which the gentleman [Mr. JONES] has introduced, in section 1.

Mr. JONES. I may not have heard all the gentleman said. My attention was diverted.

Mr. YOUNG of North Dakota. To be more specific, the Cagayan Sulu Islands embraced in the treaty of 1900 are located in the southwestern part of the Jolo Sea, sometimes called the Sulu Sea, and consist of Cagayan Sulu, the two Muligi Islands to the south of it, with Kinapusan, Pomelikan, Bintut, Bisu Bohan, Bohan, Mandah, and Lapun Lapun to the north.

These islands have seldom been visited and it is difficult to obtain accurate information concerning them. Admiral Keppel visited Cagayan Sulu in 1847. Sir Edward Belcher, and later an English traveler by the name of St. John, visited the islands and made some rather superficial investigations. Then the islands were visited last year by Congressman MILLER, who possesses, perhaps, more thorough and accurate information concerning them than has heretofore been published by any traveler or explorer.

It will be noticed that we purchased these islands just the same as we purchased Florida or Alaska. They were not a part of the Spanish War settlement. They came to us as the result of separate negotiations. It is important that we legislate respecting these small islands with intelligence. We should not act hurriedly and without thought. They belong to the United States. Our title to them is unquestioned. As guardians of the public domain—as conservationists, if you will—should we take the responsibility of quitclaiming away our title to these outlying islands in a blanket deed to the Filipinos without even ascertaining their value? It is generally believed now that England overlooked a trick—in fact, made a colossal blunder—when she parted with the title to the little island of Helgoland. We should not in the dying days of this session rush through a bill of such tremendous importance. This question should be faced squarely. We owe it to the people of our day as well as to those yet to come.

Congressman CLARENCE B. MILLER, who has explored these islands, says that Cagayan Sulu contains a wonderful harbor, which could with comparatively small expense be made one of the best harbors in the world. According to his statement what might be called the outer harbor is deep, with the exception of the entrance, where there is a formation of coral rock, which could easily be removed. Then, at a distance of 50 yards and at a height of 40 feet, there is an interlake containing fresh water. As there are no fresh water docks within thousands of miles its commercial value is apparent. Undoubtedly a big business could be done if the fresh-water lake were connected up by locks, so that the vessels of the nations could go there to have barnacles removed. It could be made a ship hospital, not only convenient, but profitable.

Cagayan Sulu Island seems to be about 8 miles long and 4 miles wide. Sibutu Island is about 14 miles long and 2 miles wide. The remaining islands are smaller. The soil and climate are said to be favorable to the cultivation of tobacco, sugar cane, hemp palm, yams, bananas, coconuts, and a variety of fruits and vegetables. Admiral Keppel, who visited Cagayan Sulu in 1847, says of it:

> Capt. Sir Edward Belcher, in describing his voyage in these seas, mentions having discovered in the south side of Cagayan Sulu a circular inlet of very deep water, cut off from the sea by a very shallow bar. Being very anxious to discover this fathomless basin, we kept a good lookout from the masthead, and a spot answering the description having been observed in passing it was determined to send an exploring party the next day.
>
> On the 17th we came to, in 10 fathoms, about a mile off the south side of Cagayan, and immediately commenced our examination of the curious circular lake before mentioned. The entrance is by a gap about 50 yards wide; this, however, is crossed by a bank of coral, which extends along the whole south coast and at low water is nearly dry, so as to exclude any boat larger than a canoe. On passing the bar we found ourselves inside a magnificent circular lake of deep blue water. Its circumference was about 3 miles. It was completely encircled by sandstone cliffs, upward of 200 feet in height and nearly perpendicular. Their sides were covered with trees and shrubs.

In sounding we found the depth of the water to vary from 50 to 60 fathoms, and it appeared to be as deep at the sides as in the center. Nothing could be more beautifully luxuriant than the growth of the jungle trees of every description their trunks and branches covered with an endless variety of beautiful creepers in brilliant blossom hanging in festoons to the very water's edge.

Forming ourselves into small parties, we dispersed, some to haul the seine, some to search for shells, while a third party explored the gap on the northeast side, clambering up without any anticipation of a further treat which was in reserve for them. At a height of about 40 feet another beautiful lake burst on their astonished sight, circular in form, and as nearly as possible similar to that which they had just left. The water of the higher or inner lake was perfectly fresh.

Guillemard, the naturalist, gives the idea that the island was originally colonized from Sulu and Borneo. He says:

With regard to the birds, the few species we collected or identified were interesting as showing the island to have been peopled with immigrants both from the Philippines and Borneo, though, as might be expected from its proximity, chiefly from the latter country.

Mr. Chairman, whether our country, in the event of the final granting of complete independence to the Filipinos, should retain the outlying islands in the Jolo Sea is perhaps one which should be settled in the future. If so, we should not at this time abridge the right of freedom of action. If section 1 of the bill and the preamble are passed as they are now written, our sovereignty in the outlying islands in the Jolo Sea will be surrendered.

ABSENT VOTER'S LAW.

Mr. Chairman, some of the gentlemen who sit before me have a worried look. There was a time when they hoped to at least get home for a couple of weeks before election day. Now they are worrying because there is some doubt about getting home even to vote. Not so the North Dakota delegation. While we would like to go home to take part in the political campaign now in progress, the problem of voting is already solved by our absent-voter's law, which will permit us to vote by mail if we are detained here by public business.

North Dakota has once more blazed the trail. Our State legislature passed an absent-voter's law during the session of 1913. At the primary election held in our State a couple of months ago many absent voters enjoyed the rare privilege of having their votes recorded. The wording of the law is very simple and fully safeguards the purity of the ballot. Every citizen who knows he will not be able to be at home on election day writes to the county auditor of his county for an absent-voters' ballot. He receives it by mail and mails it back to the auditor, who places it with the election supplies to be sent to his voting precinct. On the envelope is a short affidavit form wherein the voter makes oath that he has voted it in secret and that he has not been influenced in marking it by the officer before whom he took the oath. On election day the absent voter's name is entered on the voting registers and the ballot is deposited in the ballot box, the same as though he were personally present.

The absent-voter's law bears directly upon the question of compulsory voting laws. Many thoughtful people have hesitated to enact such laws. The large percentage of those who do not vote, however, which seems to be increasing by the returns from the primary elections in the different States, presents a real problem. Some do not vote because it is against their religion. They are, of course, excusable in a land of religious freedom. Others do not vote because of neglect. Then there is the class of conceited, self-satisfied, and superior-minded citizens who refuse to muddy themselves with what they call the sordidness of politics. Well, the country has in some way managed to live without their exercise of the right of franchise in the past, and may through a kind Providence be able to exist without them in the future. But there is a great class of our citizens, including railroad employees and traveling salesmen, who are unable to vote, and it would be a great injustice were the State to deprive them of their vote because of their inability to be at the polls. Our laws have hedged the polls about with many restrictions, regulations, and rules, made necessary, no doubt, by the desire to keep the ballot free and unstained by corruption, but which have acted in a measure to prevent a large number of voters from casting their ballots. Preeminent in this class are the traveling men, intelligent as few professions are as a whole; intensely interested in the great questions of the day; hearing those questions discussed and discussing them from every angle, as they must in their daily journeys; the first to note the effect of every new policy and law, touching elbows with all classes, as they do, and not circumscribed by a narrow horizon. How shall these men have an opportunity to express all they have learned in their journeyings across their territory when those very journeyings take them from home on election day? It would be difficult to overestimate the power of these men and the good they may do and actually accomplish in the State or Nation. We have the newspaper, telegraph, telephone, and their endless means of dissemination of the news, but these fall short of that personal contact that the traveling salesman alone can and does give. The merchant rising from a reading of his daily newspaper meets the knight of the grip at his door, and his first question is almost invariably, "What is the inside of this story in the paper concerning So-and-so?" And nine times in ten the personal opinion of the traveling salesman becomes unconsciously the personal opinion of one-half the men on his route.

We know and fully appreciate the power of the traveling salesmen in North Dakota. They have perhaps been unable to vote, but their opinion as they have traveled from town to town has settled grave questions for us, has elected and defeated men, and they have I am bound to say, always been on the side of honor and decency in politics. It was through their influence and activity that the legislature was induced to pass the law.

Already North Dakota has calls from all over the Union for copies of the law that statutes may be modeled after it for other States. It is of vital interest to every voter who finds it difficult to be at home on election day. For instance, the commuter from New Jersey to New York is interested. He wants to vote, but he can not take the day off from his business to do so. His own business or his employer's will not permit it. Yet if he can take the ballot in his home and, with his wife, deliberate upon it and mark it slowly and carefully—and not as men must on election day, in five minutes or less—do you judge he will vote with stupidity or thoughtlessness? He will not. It will be the better for the time and consideration he can give it. Then many thousands who live here at the Capital could vote, if absent-voter's laws were enacted in all the States. I see some faces of gentlemen in the press gallery who can not go home to vote without spending from $5 to $200, to say nothing about the loss of time.

North Dakota has once more taken its place in the vanguard of States in matters of legislation. It would never have done so, at least so far as the absent-voter's law is concerned, had it not within its borders a body of traveling men, smaller perhaps in numbers than that within most of the other States, but of a high moral standard, alert, intelligent, thoughtful, energetic, courageous, patriotic, and filled with an enthusiasm not only for business but for a government honestly and wisely administered.

The CHAIRMAN. If there is no further debate, the Clerk will read the bill.

Mr. STAFFORD. Mr. Chairman, if there is no further debate, I would like to make the point of order that there is no quorum present.

Mr. JONES. I hope the gentleman will withhold his point.

Mr. STAFFORD. The Chair stated that if there was no further debate the Clerk would read, and I certainly will not have the bill read under the five-minute rule with such a small number present.

Mr. JONES. I desire to yield 20 minutes to the gentleman from New Jersey [Mr. BAKER].

Mr. STAFFORD. Then I will withhold the point of order.

Mr. BAKER. Mr. Chairman, a sliding scale is doubtless a useful thing in various operations. It is not quite so desirable in the size of the audience here, and particularly is it undesirable when you find yourself allowed 1 minute or 60 minutes, just as the scale may stand at the time you are permitted to speak. It may interfere somewhat with the intelligence and continuity of your address and militate against its utility.

Mr. SLOAN. Will the gentleman yield?

Mr. BAKER. Certainly.

Mr. SLOAN. The gentleman was saying something about the smallness of the audience. Does the gentleman understand this is simply a "baker's" dozen we have here now? [Laughter and applause.]

Mr. BAKER. I am doubtful whether there are that many.

Mr. BAKER. Mr. Chairman, the preamble in the bill is a clear statement of the reasons and objects of the proposed legislation.

No one has taken definite issue with either; only as to the propriety of the formality.

The proponents of the bill seek to expedite the qualification of the Philippine people for self-government by extending to them every facility to acquire adjustment and aptitude in the processes, and fortitude in the maintenance of orderly, free, and autonomous government.

Ultimate executive dominance, or sovereignty, alone is withheld, awaiting only their preparedness to take over the control and conduct of their own government.

The opposition never say what they intend to do; they know the American people are in a false and insecure position in this Asiatic business, but they do not indicate a firm or definite

purpose to get away from it, even on terms highly favorable to our trade, commerce, and defense.

They are only, like the Irishman, "Agin the Government." They would treat the Philippine people as they did the infant industries in the tariff—keep up the nursing and keep on the swaddling clothes until they are hoary headed, and then still nurse and swaddle and exploit them. [Applause.]

We hope to accelerate their attainment of maturity in self-governing faculty by giving them an opportunity to try. We want peace and progress and self-government everywhere. [Applause.]

We have enough to do to mind our own business and keep our house in order without and instead of nosing around the world like some Nebuchadnezzar or Darius or Alexander or Cæsar, or other despotizers, to get more provinces and to quarrel and contend with people about whose evolution and habits and prejudices and emotions we know nothing.

If we want to be political missionaries we might take lessons from Mahomet, who did a land-office business in that line. But it is doubtful if we could ever appreciate the ethics or circumvallate the periphery of his system.

We talk about the science of politics. Europe has always been crowded with professors of that science, and they have made a mess of it.

They have turned a paradise into a shambles. They have covered their hills and strewn their valleys with dead men and have turned their rivers red with the blood of their young men, the hope of the nations. [Applause.]

George Washington had more scientific sense in his unscientific head than all the professors of the science of politics, from Machiavelli down to this grim day.

War is absurd. It shows the veil between civilization and barbarism is the thinnest thing on earth. And yet and also war is the price of the denial of equal rights among men, and that denial is about the only possible justification of the crime of war. [Applause.]

Covetousness is an original moral disease of the first magnitude and most universal prevalence, and its restraint has engaged the devoted attention of good and true men in all ages.

There never was a thief who was not covetous; he wanted that which belonged to another, and being a specialist and less scrupulous and more subtle or stronger than his victim, he exercised his faculties.

It is the same with nations as it is with individuals; no more, no less. A big thief is not entitled to consideration on account of the size of the loot.

The most valuable possession men have is freedom, the right to govern themselves. When that is taken away nothing remains but sordid, spiritless servitude. [Applause.]

"All just powers of government are derived from the consent of the governed." We said that when we were oppressed. Do we say that now when are able to oppress others? Civil institutions are purely concessionary.

George III declared that he did not dare withdraw his Government from the American Colonies because if he did they would fall into anarchy and destroy each other.

He was an altruist, and a conscientious one at that. All that ailed him was a lack of education and better information on the limitations of his junior partnership with the Almighty in the matter of his divine right to govern men. The democracy of the United Kingdom of Great Britain has elucidated that question.

No despot ever lived who did not believe, including those of us who are disposed to despotize, that he was the best friend the people ever had, and that they needed him every hour.

It is always a case of felonious force or hypocritical bighead, and it seems few are immune who have a chance to practice the transparent fraud.

Our government in the Philippines was superimposed by force; it continues by force, and it can not live without force. [Applause.]

A pretty business for real men, American men at that, to be engaged in. If the fathers of the Republic, from Samuel Adams and George Washington down, knew it, they would hide their faces for shame, and they would cry out in anguish, "How sharper than a serpent's tooth is an ungrateful child." [Applause.]

Some say we got the Philippines by accident. An honest man does not keep that which belongs to another and which he acquired by accident or force. [Applause.]

It is said that this is not the time to vindicate the dependableness of our word of honor, when Europe is stark mad with slaughter and the burning of the homes of the people and the destruction of the monuments of civilization. [Applause.]

On the contrary, this is the time of all times to set a light in the firmament that all the world may see that there is one nation the essence of whose profession is the perfection of its performance and that good faith and self-government are the hope of the world. [Applause.]

We are dallying with triple serpents—pride, deceit, and covetousness—and we will get stung. [Applause.]

We call it altruism; it is "all-folly-ism." [Applause.] Let us quit talking about the square deal and engage in the "fair-do" [applause] with all men, and the whole world will say, "There is the truthteller, the fair doer, your real Uncle Sam." [Applause.]

This bill is saturated with honor; it rings with righteousness [applause]; it is clothed with freedom. [Applause.] Adopt it and we will once more know the ecstacy of a good conscience. [Loud applause.]

The CHAIRMAN. The gentleman from New Jersey [Mr. BAKER] has consumed 15 minutes.

Mr. JONES. Will the gentleman yield back the balance of his time?

Mr. BAKER. I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back 5 minutes.

Mr. JONES. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FLOOD of Virginia, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill (H. R. 18459) to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands, and had come to no resolution thereon.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 13811. An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

EXTENSION OF REMARKS.

Mr. BURKE of South Dakota. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from South Dakota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. ADAMSON. Mr. Speaker, I would be glad if the House would consent to let me take the Senate bridge bill from the Speaker's table and consider it.

Mr. HELGESEN. Mr. Speaker, I ask unanimous consent that I may extend my remarks in the RECORD.

Mr. GARNER. Mr. Speaker, will not the gentlemen always indicate the character of the speeches they wish to insert?

Mr. HELGESEN. My remarks are on the effect of legislation on the business of the country.

The SPEAKER. The effect of legislation on the business of the country. Is there objection?

There was no objection.

Mr. CANTOR. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the Philippine bill.

The SPEAKER. Is there objection?

There was no objection.

BRIDGE ACROSS THE MISSISSIPPI RIVER AT ST. PAUL.

The SPEAKER. The gentleman from Georgia asks unanimous consent to take from the Speaker's table a Senate bill——

Mr. ADAMSON. There is an identical House bill on the calendar.

Mr. STAFFORD. I hope the gentleman will bring that up the first thing in the morning.

Mr. ADAMSON. I never can get a chance to do it in the morning. There is always a row. [Laughter.]

Mr. GARNER. Why not take it up this evening? It is not 5 o'clock yet.

Mr. ADAMSON. It is a bill of the gentleman from Minnesota [Mr. STEVENS]. It is not my bill.

Mr. MOORE. Reserving the right to object, will the gentleman state where the bridge is to be constructed?

Mr. ADAMSON. Away out in the West. Mr. STEVENS of Minnesota is responsible for it.

Mr. MOORE. That is a pretty broad expanse.

Mr. ADAMSON. It is a pretty good bridge. I would not let it hurt navigation.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

An act (S. 6440) to authorize the Chicago, Milwaukee & St. Paul Railway Co. and the Chicago, St. Paul, Minneapolis & Omaha Railway Co. to construct a bridge across the Mississippi River at St. Paul, Minn.

Mr. ADAMSON. It is an old bridge, and it needs to be repaired, and they need to have authority to do it. It is a reconstructed bridge.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Chicago, Milwaukee & St. Paul Railway Co., a corporation organized and existing under the laws of the State of Wisconsin, and the Chicago, St. Paul, Minneapolis & Omaha Railway Co., a corporation organized and existing under the laws of the State of Wisconsin, and their successors and assigns, be, and they are hereby authorized to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River at a point suitable to the interests of navigation, in the east half of the southwest quarter of section 12, township 28 north, range 23 west of the fourth principal meridian, in the city of St. Paul, county of Ramsey, and State of Minnesota, to replace the bridge and approaches there located, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby reserved.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read a third time, and passed.

On motion of Mr. ADAMSON, a motion to reconsider the vote by which the bill was passed was laid on the table.

By unanimous consent, a corresponding House bill (H. R. 18607) was laid on the table.

THE PHILIPPINE ISLANDS.

Mr. JONES. Mr. Speaker, I desire to submit a request for unanimous consent that 30 minutes of the time remaining for general debate may be used at the conclusion of the reading of the bill under the five-minute rule instead of at the end of general debate.

The SPEAKER. Does the gentleman mean there shall be 30 minutes of general debate at the conclusion of the five-minute debate?

Mr. JONES. It is to be taken from the time that has been fixed upon for general debate.

The SPEAKER. But it is to be used at the end?

Mr. JONES. To be used at the end of the consideration of the bill under the five-minute rule.

The SPEAKER. The gentleman from Virginia [Mr. JONES] requests that 30 minutes of the time for general debate which has been allotted shall be subtracted, in the first instance, from general debate, and that general debate for 30 minutes be permitted at the end of the discussion under the five-minute rule. Is there objection?

Mr. STAFFORD. Reserving the right to object, first I would like to inquire how much time now remains for general debate, if the gentleman can inform the House?

Mr. JONES. I think there is about an hour and a half remaining; and I will say that the gentleman from Iowa [Mr. TOWNER], who is the ranking member of the minority, desires, as well as myself, that this be done.

Mr. STAFFORD. Does the gentleman's request contemplate 30 minutes on each side?

Mr. JONES. No; 15 minutes on a side.

Mr. STAFFORD. Is that general debate to be limited to the bill?

Mr. JONES. Limited to the bill, of course.

Mr. STAFFORD. It is rather an unusual request to have general debate after a bill is concluded. Does the gentleman mean after the passage of the bill?

Mr. JONES. I mean after the bill has been considered under the five-minute rule for amendment. Then there is to be this 30 minutes of debate, 15 minutes on each side. I will say to the gentleman this was not my suggestion.

Mr. FESS. Mr. Speaker, do I understand the chairman to say that the gentleman from Iowa [Mr. TOWNER] has agreed to that?

Mr. JONES. Judge TOWNER has agreed to this proposition.

The SPEAKER. Now, the understanding is that 30 minutes of the general debate under the rule shall be subtracted therefrom and shall be used after the five-minute debate is over, the gentleman from Virginia [Mr. JONES] having 15 minutes of the 30 minutes and the gentleman from Iowa [Mr. TOWNER] having 15 minutes, and the debate is to be on the bill?

Mr. JONES. To make the matter perfectly plain, Mr. Speaker, the understanding is that 15 minutes is to be taken from the time remaining to the majority and 15 minutes from the time remaining to the minority and to be controlled as the time is now controlled.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. JONES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 50 minutes p. m.) the House adjourned until Friday, October 2, 1914, at 12 o'clock noon.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. SHREVE: A bill (H. R. 19060) to establish a standard basket for grapes when packed in baskets, and for other purposes; to the Committee on Coinage, Weights, and Measures.

By Mr. TAYLOR of Colorado: A bill (H. R. 19061) for the relief of homestead entrymen under the reclamation projects of the United States; to the Committee on the Public Lands.

By Mr. BEALL of Texas: A bill (H. R. 19062) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. STEPHENS of Texas: Joint resolution (H. J. Res. 362) to correct an error in the enrollment of certain Indians enumerated in Senate Document No. 478, Sixty-third Congress, second session, enacted into law in the Indian appropriation act approved August 1, 1914; to the Committee on Indian Affairs.

By Mr. KINKEAD of New Jersey: Resolution (H. Res. 633) authorizing the Doorkeeper to employ additional help; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAILEY: A bill (H. R. 19063) granting an increase of pension to Robert M. Skillington; to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 19064) granting an increase of pension to Solomon H. Foster; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 19065) granting a pension to Jennie Allen; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 19066) granting a pension to Annie Welsh; to the Committee on Invalid Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 19067) granting an increase of pension to Cordelia Briggs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19068) granting an increase of pension to Dorcas M. Watkins; to the Committee on Invalid Pensions.

By Mr. PHELAN: A bill (H. R. 19069) granting a pension to Mary Kimball; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19070) granting an increase of pension to Edward C. Thompson; to the Committee on Invalid Pensions.

By Mr. RUPLEY: A bill (H. R. 19071) granting an increase of pension to Charles U. Burns; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19072) granting an increase of pension to Zachary Miller; to the Committee on Invalid Pensions.

By Mr. TALBOTT of Maryland: A bill (H. R. 19073) granting a pension to Howard E. Tolson; to the Committee on Invalid Pensions.

By Mr. WINGO: A bill (H. R. 19074) granting an increase of pension to James Smith; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of sundry citizens of New Mexico, favoring certain amendments to existing mining laws; to the Committee on the Public Lands.

By Mr. CARY: Petition of the First National Bank of West Allis, Wis., protesting against revenue tax on bank capital and surplus; to the Committee on Ways and Means.

By Mr. GRAHAM of Pennsylvania: Petition of Pittsburgh Oil Refining Co., protesting against tax on petroleum; to the Committee on Ways and Means.

By Mr. HAYDEN: Petition of Theodore A. Woodruff, favoring certain amendments to existing mining laws; to the Committee on the Public Lands.

By Mr. J. I. NOLAN: Resolutions of the Chamber of Commerce of Oakland, Cal., and the Berkeley Branch of the Socialist Party, of Berkeley, Cal., favoring the passage of the Hamill bill, providing for the retirement of superannuated Federal civil-service employees; to the Committee on Reform in the Civil Service.

By Mr. O'SHAUNESSY: Memorial of Providence Council, No. 67, United Commercial Travelers of America, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Weaver & Co. and J. H. Preston & Co., of Providence, R. I., protesting against legislation prohibiting business men from purchasing stamped envelopes from the Government; to the Committee on the Post Office and Post Roads.

By Mr. REILLY of Connecticut: Petition of City Council of Hartford, Conn., favoring Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. TOWNSEND: Petition of citizens of Essex County, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. TUTTLE: Petition of Woman's Home Missionary Society of the Methodist Episcopal Church of Mendham, N. J., against the bringing of railroad tracks opposite Sibley Hospital, Washington, D. C.; to the Committee on the District of Columbia.

Also, petition of Socialist Party, Branch No. 1, Rockaway, N. J., favoring observance of neutrality by United States during European war; to the Committee on Foreign Affairs.

Also, petition of Liquor Dealers' Protective League of New Jersey, against a tax on beer, whisky, or wines; to the Committee on Ways and Means.

Also, petition of Young Men's Christian Association, Elizabeth, N. J., against legislation which will prevent purchasing at local post offices stamped envelopes with address printed thereon; to the Committee on the Post Office and Post Roads.

By Mr. WILLIAMS: Petition of 77 citizens of the United States, relative to due credit to Dr. Cook for his polar efforts; to the Committee on Naval Affairs.

SENATE.

FRIDAY, *October 2, 1914.*

(Legislative day of Monday, September 28, 1914.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

EMERGENCY REVENUE LEGISLATION.

Mr. TOWNSEND. Mr. President, I ask unanimous consent to present a proposed amendment to the bill (H. R. 18891) to increase the internal revenue, and for other purposes, and that it may be printed and referred to the Committee on Finance.

The VICE PRESIDENT. Without objection, that action will be taken.

AUTOTRUCKS FOR POSTAL SERVICE.

Mr. TOWNSEND. I ask unanimous consent to submit a resolution, and I ask for its consideration. I should like to have it read.

The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 459), as follows:

Resolved, That the Postmaster General be, and hereby is, directed to send to the Senate at the earliest possible date all information in his possession or in the possession of the Post Office Department in any manner bearing upon the action of the department inviting the manufacturers of autotrucks, some time prior to the 8th day of September, 1914, to submit bids for supplying such trucks for the use of said department.

Such information to include the department's invitation to bidders; copies or originals of the respective bids received; the action of the department in forming a committee to pass upon the bids; how, by whom appointed, and under what instructions the committee acted, as well as the names of the individuals composing said committee; the full report of the committee, and the reasons for its award of contract or contracts to other than the lowest responsible bidder, if such awards were made, and all correspondence or facts that will tend to give the fullest possible information regarding this transaction.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. CULBERSON. I ask for the regular order.

The VICE PRESIDENT. The resolution will lie over for a day. The Senate resumes the consideration of the conference report on House bill 15657.

PROPOSED ANTITRUST LEGISLATION.

The Senate resumed the consideration of the conference report on the disagreeing votes of the two Houses upon the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. NORRIS. Mr. President——

Mr. TOWNSEND. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Page	Swanson
Bryan	Lane	Perkins	Thomas
Chamberlain	Lea, Tenn.	Pomerene	Thompson
Chilton	McCumber	Reed	Thornton
Clapp	Martin, Va.	Robinson	Townsend
Culberson	Martine, N. J.	Shafroth	Vardaman
Fletcher	Myers	Sheppard	West
Gore	Norris	Shively	White
Gronna	O'Gorman	Simmons	
Hughes	Oliver	Smith, Ga.	
James	Overman	Smoot	

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. RANSDELL]. I will let this announcement stand for the day.

The VICE PRESIDENT. Forty-one Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of absent Senators, and Mr. JOHNSON, Mr. SMITH of Arizona, Mr. STERLING, Mr. WALSH, and Mr. WILLIAMS answered to their names when called.

Mr. MCLEAN entered the Chamber and answered to his name.

Mr. SMOOT. I wish to announce that the senior Senator from New Hampshire [Mr. GALLINGER], the junior Senator from Utah [Mr. SUTHERLAND], and the junior Senator from West Virginia [Mr. GOFF] are necessarily absent. The senior Senator from New Hampshire [Mr. GALLINGER] is paired with the junior Senator from New York [Mr. O'GORMAN], my colleague [Mr. SUTHERLAND] is paired with the senior Senator from Arkansas [Mr. CLARKE], and the junior Senator from West Virginia [Mr. GOFF] is paired with the senior Senator from South Carolina [Mr. TILLMAN].

Mr. STONE and Mr. BANKHEAD entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present. The Senator from Nebraska will proceed.

Mr. NORRIS. Mr. President, I voted for this bill as it passed the Senate. I voted for the Trade Commission bill. I voted for the conference report on the Trade Commission bill. While I voted for this particular bill as it passed the Senate, I was not by any means satisfied with the bill as it passed the Senate. I voted for a great many amendments that were defeated, and I voted to keep in the bill some of the House provisions that were taken out by the Senate. The House bill had some very good provisions in it that were taken out by the Senate; the Senate bill, as it passed, had some excellent provisions; so that out of the House bill and the Senate bill, if we had kept in what was good in both, we should have had a good law. In my judgment, the conferees in the main have kept in what was bad in both bills, and we have now but very little of good in the conference bill. The conferees have taken the House bill and the Senate bill, and out of them have drafted a new measure. In the shape of a conference report, that bill is now before the Senate, and we must vote for it as an entirety or against it as an entirety. There is no possibility now of amending it; but in my opposition to this conference report, and my determination to vote against it, I think I have already shown that such a conclusion reached by me has not been arrived at because I am opposed to this kind of legislation. I am not willing to admit that a vote against the conference report means that there will be no trust legislation. A vote against the conference report and its defeat means that the report will go back to conference and that we may ultimately get a good bill.

The conference bill has taken out practically all of the teeth of the legislation. It is a milk-and-water proposition, as I look at it. While it contains some good, even though I believed a defeat of the conference bill would mean no trust legislation at this session of Congress, I would rather take that responsibility and defeat it than to have the bill passed in its present form.

The Senator from West Virginia [Mr. CHILTON] has argued that if we do not pass this conference bill the probabilities are there will now be no trust legislation. If we do pass the conference bill, then the cry will go out that this Congress has legislated on the trust question, and it will perhaps be a generation before additional legislation will be had. If we defeat this conference bill, the issue will still be before the American people, and in the end I believe we shall get good legislation.

Mr. President, I believe this conference bill is a fraud and a sham. If it is enacted into law in its present form, it will have